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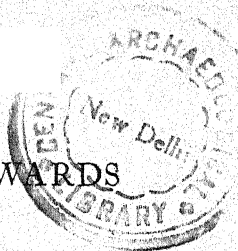
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# THE WORLD'S EARLIEST LAWS

BY  
CHILPERIC EDWARDS



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## PREFACE

NEARLY thirty years have passed since the first edition of this book. In the interval much has been done towards the better understanding of the great law-code of King Hammurabi, and fresh information has been collected regarding the life and surroundings of that celebrated monarch. As a consequence, it has been necessary to re-write the entire book in order to place the reader in possession of the latest knowledge on the subject. The notes on the Code have been expanded into a score of essays of varying length, which, it is hoped, will set the legal provisions in a clearer light and give a more accurate idea of the state of civilization in Babylonia, particular attention being paid to the metrology of the period and the current prices of the day, because such details will appeal more forcibly to the general public.

Chronology is an essential part of history, and the recovery of the complete lists of the three contemporary dynasties has given us a firm insight into the political conditions of ancient Mesopotamia up to the unification of the country by King Hammurabi.

Two important and startling discoveries have been made by American scholarship during the last few years. The monument unearthed at Susa in 1902 had had part of its inscription obliterated. A large amount of this missing matter has now been restored.

Of still greater moment is the decipherment and publication of a portion of an earlier Sumerian Code of Laws. Dr. Stephen Langdon will be the first to admit that his latest improved translation is a provisional one, so that we need not insist upon the exact text; but it is sufficient to prove King Hammurabi's indebtedness to his Sumerian predecessors. As a result of these additions to our knowledge the present work is able to present a much more complete version of the Babylonian law-code than has yet appeared as well as an account of the antecedent Sumerian legislation.

Professor Scheil's publication of the Code of Hammurabi in 1902 immediately challenged comparison with the Mosaic Law, and three main theories were formulated: (1) that the Laws of Moses were entirely independent of those of Hammurabi; (2) that both systems had been derived independently from a presumed body of primitive Semitic custom; and (3) that the Laws of Moses were in direct descent from those of Babylonia.

The first theory has had few supporters, for it is obviously untenable, the resemblances between the Chaldean and the Hebrew legislation being far too great. The second theory is now overthrown by the discovery of the Sumerian law-code. We can no longer postulate any imaginary body of *Semitic* custom, for, even with our present imperfect knowledge, it is clear that Hammurabi's legislation was

founded upon that of the Sumerians. Consequently, any likeness between the Hebrew and the Babylonian systems must be due to their dependence upon a common Sumerian original; and the only way in which the Hebrews could have derived anything from the Sumerians was through the great Code of Hammurabi. Thus the third view may be considered to have been fully demonstrated and established.

C. E.

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## CHAPTER I

### THE DISCOVERY OF THE CODE

IN 1897 the French Ministry of Public Instruction and Fine Arts decided to open excavations at Susa, in Persia, the site of a famous ancient city. These excavations yielded much information regarding the early history of the Persians and their predecessors, the Elamites; but the most notable discovery of all had nothing to do with either of those peoples; it was a monument containing the Code of Laws which regulated the lives and conduct of the Ancient Babylonians.

Towards the end of December, 1901, the diggers came upon a large fragment of black diorite. A few days later two other pieces were unearthed; and when they were all fitted together they proved to belong to the same monument, a pillar in the shape of an elongated sugar-loaf, inscribed on back and front with columns of Babylonian writing. Professor V. Scheil, the veteran Assyriologist, immediately set to work to decipher it, and found it to be a proclamation of the Babylonian king, Hammurabi, who reigned from 2123 to 2080 B.C., and who had published a Code of Laws in this permanent form. The pillar had originally been erected in the temple at Sippara (now Abu-Hubba, near Bagdad), where it remained the chief ornament for a thousand years, until, about

1176 B.C., an Elamite monarch, named Shutruk-Nahunte, over-ran Babylonia, sacked Sippara, and removed the monument to Susa, a distance of two hundred miles, as a tangible memorial of his conquests.

Realizing the importance of the discovery, the French Government had the whole of the text published in heliogravure in a magnificent quarto, entitled *Textes Elamites-Semitiques*, being tome iv of the *Mémoires de la Délégation en Perse* (Paris, 1902). The pillar is now in the Louvre at Paris, and a very fine reproduction is exhibited in London, at the British Museum. The monument stands 7 ft. 4 in. high, and is 2 ft. in diameter. The hard stone of which it is composed has preserved the original writing with extreme sharpness, and, except for a section polished away in antiquity, the whole of this lengthy inscription is quite plain and legible. We are thus in possession of a document which has the unique advantage of being contemporary with its author; and no question can arise as to its original composition or the accuracy of generations of transcribers; for it is the autograph of King Hammurabi himself, and has come down to us through the ages, with little injury, in this remarkable manner.

It is needless to say that a monument of this character and importance has met with the deep attention it deserves from scholars and jurists in all parts of the civilized world, and an exceedingly large literature has grown up around it. The mere enumeration of these works would occupy a considerable space; but, fortunately for the student, there is a masterly sketch of the whole of the literature by the late Dr. C. H. W. Johns, of St. Catharine's



College, Cambridge, in his work on *The Relations between the Laws of Babylonia and the Laws of the Hebrew Peoples* (second edition; Oxford University Press; London, 1917). Dr. Johns's Classified Bibliography, pp. 65-98, is a complete guide to the subject; and the name of the author is a sufficient guarantee of its completeness and impartiality. A few later contributions will be noticed in the course of the present book.

## CHAPTER II

### HAMMURABI AND HIS REIGN

THE territory between the southern Tigris and the southern Euphrates was anciently called Babylonia, taking its name from the City of Babylon. There was nothing singular in this, for many of the empires of the world have taken their rise from cities. We need not mention Rome, which at one time dominated the Mediterranean; or its rival, Carthage. The empire of the Hittites originated in the city of Hatti, in Anatolia, now represented by a pile of ruins near the Turkish village of Boghaz-köi, a hundred miles due east of Angora. In like manner the Assyrian empire sprang out of the city of Assur, on the Tigris. Therefore it was in the natural course of things that the Babylonian empire should have received its title from Babylon. But there must be a beginning to everything; and the city of Babylon did not emerge into prominence until a comparatively late period, for there were other cities in southern Mesopotamia, more ancient, and at one time more important.

Babylonia was occupied at the earliest known period by two distinct races, the Semites and the Sumerians, and ethnologists have not yet decided which of them was there first. The Semites spoke a language of the same family as Syriac, Hebrew, and Arabic, and the people, for the most part, had the

peculiar physiognomy which we style "Jewish," the Jews being better known in western Europe than any other of the Semitic nations. The Sumerians, on the other hand, spoke what is called an "agglutinative" tongue, the affinities of which are still a puzzle; and, as far as we can judge from the scanty evidence of sculptures, the Sumerians themselves were markedly different in physique and feature from their Semitic neighbours. Whatever their origin may have been, they were a remarkable people, and it was they who originated the civilization of Mesopotamia. For some reason or another, the Sumerians gradually died out, and the Semitic language and the Semitic type became universal, though still preserving much that had been originally borrowed from the Sumerians.

European theologians have always expressed great interest in Babylonia, as being the supposed site of the Garden of Eden. But that was after the Sumerians had transformed the country. We know what it was like in its original state, because centuries of neglect have destroyed the work of the Sumerians, and the greater portion of the land has reverted to its primitive condition, where "Nature" rages uncontrolled. The surface of the earth is impassable marsh in the wet season, and a dusty waste in the dry period. The air is full of noxious insects, and the ground swarms with still more horrible reptiles. At intervals the land is swept by awful storms, while the temperature alternates between torrid heat and arctic cold. In the words of a disgusted British soldier: "*If this was the Garden of Eden, it wouldn't want a blinking angel with a flaming sword to turn me out of it.*"

But it did not dismay the Sumerians. If the

country was unattractive to the human species, vegetation flourished. De Candolle considers it to have been the original home of wheat, which still grows wild there; and we need not dwell on the vital importance of that cereal. West of Babylonia it is the staple food of man, while eastward the staple food is rice. Thus Mesopotamia is the real dividing line between Asiatic and European civilization. The fertility of the country astonished the Hellenes coming from the barren soil of Greece. Theophrastus, the Greek agriculturist, writing in the fourth century B.C. (*Hist. Plant.*, viii, 7), says:—

In Babylonia they reap two crops of wheat; then, in the third year, they drive sheep into the fields. This strengthens the straw, and otherwise it would run too much to blade. When little trouble is taken wheat yields fifty to one; but under careful tillage it is a hundred to one. The treatment of the soil consists in running water upon it and letting it remain some time, so as to form plenty of slime. If, however, the earth is too fat and close, it must be loosened with the plough. Unlike Egypt, shrubs and weeds do not flourish. This is in consequence of the excellence of the soil.

We may better appreciate what this means when we reflect that in our climate the farmer scarcely ever succeeds in obtaining a greater yield than twenty to one. Herodotus (I, 193) and Strabo (XVI, i, 14) are still more lavish in their estimates; but we will rest content with the testimony of Theophrastus.

The date-palm was of even greater utility to the

Babylonians, for the fruit, the leaves, the trunk, and every part of it are capable of manifold applications, and Strabo (XVI, i, 14) tells us of an ancient song praising the date-palm because it had as many uses as there were days in the year. In the opinion of the botanist, Victor Hehn, the culture of the date-palm originated in Babylonia; for it flourishes best under the care of man.<sup>1</sup> It is one of those plants that have two sexes, and the Babylonians appear to have been the first to apply the principle of pollination. Thus the human race is indebted to the Sumerians for two of the most important foodstuffs in the vegetable world, and it is impossible to guess how civilization would have been developed without them.

The Sumerian planted his fields of wheat and his gardens of palm-trees in this uninviting wilderness. To curb the dangerous floods he built embankments and dug canals, making a howling desert into a "Garden of the Lord." The Sumerians even found uses for the ever-present mud, moulding it into bricks, and building houses, cities, forts, and temples. Most wonderful of all, they made this mud into books! They developed a species of hieroglyphic writing, and when these hieroglyphs were impressed on clay tablets with a squared stick the strokes assumed the form of wedges; hence we call the script "cuneiform writing." The Semites adopted all the civilization of the Sumerians, including this cuneiform writing; and, as a baked clay tablet is practically indestructible, many thousands have survived to inform us about the daily life of the Babylonians.

<sup>1</sup> *The Wanderings of Plants and Animals* (London; 1888), p. 202.

We have said that the Sumerians founded cities. At the end of the third millennium B.C. there were three of these cities that were of special importance. They were Nisin, Larsa, and Babylon. Nisin is sometimes called Isin. Larsa is usually spelt Larsam; but in Babylonian final *m*, though written, was not always pronounced. Babylon is the Greek form of the native Semitic *Bab-ili* = "the Gate of the Gods." In Western Europe a gate is merely an opening to go in and out of. In the East it means much more. It is the usual place of assembly where the townsmen can safely meet strangers, and where all the public business of the city is transacted. Consequently, the word "gate" (*bab*) has a more extended meaning than in the West, and *Bab-ili* may be more expressively rendered as "the meeting-place of the gods." Nisin, Larsa, and Babylon formed the centres of three distinct kingdoms, and each of these three cities was under the rule of an independent line of native kings. The Sumerian population was dying out, and the Semitic type and language were predominant, though much of the business of life was still recorded in the Sumerian tongue.

Somewhere about 2145 B.C. Babylonia was invaded from Elam by a prince calling himself Kudur-Mabuk, the "adda" of Yamutbul, and son of Simti-Silhak. The two sons of Kudur-Mabuk became masters of the city of Larsa, in Southern Babylonia. These two sons were Warad-Sin and Rim-Sin, and it was at one time supposed that both names belonged to the same person; but it is now proved by the Dynastic List that they were two different individuals—Warad-Sin reigning for twelve years, and being succeeded by his

brother Rim-Sin, who ruled Larsa for sixty-one years.

Warad-Sin first appears with the title of *Patesi*, or viceroy of the Sun-god of Larsa; but he soon adopted the style of "king" and extended his rule over the city of Ur, which he fortified with a great wall. He then conquered Hallabu, near Erech; and also Eridu and Lagash, two very ancient and important localities. Thus his reign was obviously an active one.

Rim-Sin succeeded to all his brother's conquests, and soon made himself master of the holy city of Nippur, in virtue of which he styled himself "King of Sumer and Akkad"—*i.e.*, Southern and Northern Babylonia—although there were still the independent monarchs of Nisin and Babylon. In his thirtieth year his subjects dated their contracts by the conquest of Nisin, or, as one of the tablets in the Louvre expresses it, "In the Year in which, with the sublime power of Anu, Bel, and Ea, the shepherd Rim-Sin took the city of Damiq-ilishu, the people, and the spoil of Nisin." Thus one of his powerful rivals was disposed of, and for the future his subjects dated their documents as so many years after the conquest of Nisin, the latest yet observed being his thirty-first year. To judge by the number of tablets that have been preserved, Rim-Sin's reign must have been a prosperous one, and business was brisk. In the course of his life he married at least twice. One of his wives was the daughter of Warad-Nannar; another the daughter of Sin-Magir. Thus both were Semitic Babylonians (and the second was probably the daughter of the king of Nisin, and sister of Damiq-ilishu, who was dispossessed by her

husband). He had a daughter, named Lirish-gamlum, and a sister named Enaneul, who became a priestess.<sup>1</sup>

At that epoch the city of Babylon was ruled by a line of monarchs whom we style "the First Dynasty of Babylon," dating from 2225 B.C. Sin-muballit, the fifth of the line, reigned twenty years, mostly in peace; though in his fourteenth year he defeated the army of Ur, in his seventeenth he stormed Nisin, and in his twentieth he defeated the army of Larsa. He was then succeeded by his son Hammurabi in the year in which Rim-Sin overthrew Damiq-ilishu and captured Nisin.

Hammurabi reigned forty-three years. His first care was to settle the country, which had, no doubt, been thrown into some confusion by the contest between Rim-Sin and Sin-muballit; for his second year is described in the date-lists as "the Year when Hammurabi established righteousness in the midst of the land." As far as we can gather, the greater part of his reign was spent in peace; but occasional wars were inevitable in that state of society, and we learn that in his seventh year he captured Erech and Nisin, in his tenth he took Malgu, and in the eleventh he stormed Rabiku and Shalibi. There was then a profound peace for nineteen years, at the end of which

<sup>1</sup> A rebel prince, called Rim-Sin, appeared in the tenth year of Samsu-iluna, the successor of Hammurabi on the throne of Babylon; but this must have been another individual of the same name, which was not an uncommon one at that period; for the tenth year of Samsu-iluna was eighty-three years after the accession of Rim-Sin, the son of Kudur-Mabuk, and it is quite impossible that the latter could have remained a vigorous man at such a protracted age as these figures would imply.



time hostilities broke out with Rim-Sin and his Elamite allies. Hammurabi was uniformly successful. His thirtieth was "the Year Hammurabi defeated the army of Elam"; his thirty-first, "the Year of Hammurabi, when the king's hand, with the help of Anu and Bel, who marched before his army, had captured Yamutbul and king Rim-Sin"; his thirty-second, "the Year the army of Mankitu was smitten with the sword." A further period of peace lasted a few years; and in his thirty-ninth he advanced along the Tigris and conquered Assyria, thus becoming the sole monarch of the whole of Assyria and Babylonia, about a century and a-half after his predecessor, Sumu-la-ilum, had founded the fortunes of his family by proclaiming himself king of Babylon.

While Sumu-la-ilum may have laid the foundations of Babylon's military power, Hammurabi was the real founder of her greatness. To his military achievements he added a genius for administrative detail, and his letters and despatches which have been recovered reveal him as in active control of even subordinate officials stationed in distant cities of his empire. That he should have superintended matters of public importance is what might be naturally expected; but we also see him investigating quite trivial complaints and disputes among the humbler classes of his subjects, and even sending back a case for re-trial or for further report. In fact, Hammurabi's fame will always rest on his achievements as a lawgiver, and the great legal Code which he drew up for use throughout his empire. It is true that this elaborate system of laws, which deal in detail with every class of the

population, from the noble to the slave, was not the creative work of Hammurabi himself. Like all other ancient legal codes, it was governed strictly by precedent, and where it did not incorporate earlier collections of laws it was based on careful consideration of established custom. Hammurabi's great achievement was the codification of this mass of legal enactments, and the rigid enforcement of the provisions of the resulting Code throughout the whole territory of Babylonia. Its provisions reflect the king's own enthusiasm, of which his letters give independent proof, in the cause of his humbler, and the more oppressed, classes of his subjects. Numerous legal and commercial documents also attest the manner in which its provisions were carried out; and we have evidence that the legislative system so established remained in practical force during subsequent periods.<sup>1</sup>

This great work of codifying the law and custom of Babylonia must have occupied the major portion of his life, and we have evidence in the Prologue of his inscription that it was not completed until the very end of his reign, for he mentions that he is ruler of Assur and Nineveh, which were not conquered until his thirty-ninth year. Consequently the great Law-Code of Hammurabi must have been promulgated in his closing years, or, according to the chronology of Dr. L. W. King, between 2084 and 2081 B.C.

<sup>1</sup> King, *History of Babylon*, p. 160.

### CHAPTER III

#### THE TEXT OF THE INSCRIPTION

[R. Col. I]. WHEN Anu, the supreme, the king of the Anunnaki, and Bel, the lord of heaven and earth, who fixes the destiny of the universe, had allotted the multitudes of mankind to Merodach, the first-born of Ea, the divine master of Law, they made him great among the Igigi; they proclaimed his august name in Babylon, exalted in the lands; they established for him within it an eternal kingdom whose foundations, like heaven and earth, shall endure.

Then Anu and Bel delighted the flesh of mankind by calling me, the renowned prince, the god-fearing Hammurabi, to establish justice in the earth, to destroy the base and the wicked, and to hold back the strong from oppressing the feeble: to shine like the Sun-god upon the black-headed men, and to illuminate the land.

Hammurabi, the elect shepherd of Bel, am I, dispenser of riches and abundance, completing all things in NIPPUR and Duranki, generous provider of *E Kur*.

The hero king who has restored ERIDU to its original state [R. Col. II], purifier of the cult of *E Absu*.

Invader of the Four Quarters, exalter of the fame of BABYLON, rejoicer of the heart of his lord, Merodach, whom he daily serves in *E Sagila*.

The royal offspring created by Sin, who loads the city of UR with blessings, the humble suppliant who brings abundance to *E Gish-shir-gal*.

The prudent king, favoured of Shamash the powerful, the founder of SIPPARA, who has clothed with verdure the cenotaphs of Malkat; builder of *E Babbar* like heaven's throne.

Avenging warrior of LARSA, restorer of *E Babbar* or the glory of Shamash, his helper.

The prince who has given life to ERECH by bringing abundant waters to its inhabitants, who has raised the head of *E Anna*, who has shaken out abundance over Anu and Ishtar.

The protector of the land, who has reassembled the dispersed citizens of NISIN, who has made riches to abound in *E Galmah*.

Guardian king of the city, brother of the god Zamama, who has established the colony of KISH, who has enveloped *E Mete-ursag* with splendour. Decorator of the great sanctuaries of Ishtar, sacristan of *E Harsag-kalama*.

The grave of the foe, by whose help victory is attained [R. Col. III], who has enlarged KUTHA, and amplified everything in *E Meshlam*.

The impetuous bull that overthrows the enemy, the darling of Tutu, the desire of BORSIPPA; the august, the tireless for *E Zida*.

The divine urban king, the wise, the prudent, who has expanded the plantations of DILBAT, who has accumulated corn for Ninip, the mighty.

Possessor of sceptre and crown, whom the wise Mama has created, who has set out the boundary of KESH, who lavishes holy food for Nintu.

The far-seeing one, who has carefully provided pasture and drinking-places for LAGASH and GIRSU, who has made rich offerings to *E Ninnu*.

The taker of enemies, the chosen of Telitim, accomplisher of the oracles of HALLABU, who rejoices the heart of Anunit.

The pure prince whose prayers are heard by Adad, who contents the heart of Adad the warrior in KARKAR, who has set out the vessels of *E Ugalgal*.

The king who has given life to ADAB, the prelate of the temple of *E Makh*.

The royal prince of the city, wrestler without rival [R. Col. IV], who has given life to MASHKANSHABRI, who has made [the temple of] *Meshlam* drink of abundance.

The wise, the active, who has struck down the bandits, who has sheltered the people of MALGU during troubles, and has established their habitations in abundance. Who has instituted pure offerings for ever for Ea and Damgal-nunna, because they have exalted his sovereignty.

The royal ruler of the city who has subjugated the districts on the river Euphrates, by the power of Dagan, his creator, who has rewarded the men of MERA and of TUTUL.

The renowned potentate, who has made the face of Ishtar to shine, who has placed pure food before Ninazu, who fills his people during dearth, and assures them their goods in peace in the suburbs of BABYLON.

The shepherd of men, the servant who pleases Anunit, who installed Anunit in *E Ulmash* in the suburbs of AGADE.

The promulgator of justice, the guider of the

people, who has restored its tutelary deity to ASSUR.

The crusher of enemies, who has glorified the name of Ishtar in NINEVEH in *E Mishmish*.

The exalted one, who humbles himself before the great gods, the descendant of Sumu-la-ilu, the mighty son of Sinmuballit [R. Col. V], the eternal scion of royalty, the powerful king, the sun of Babylon, beaming light over Sumer and Akkad, the king who is obeyed in the four quarters, the darling of Ishtar am I.

When Merodach had instituted me governor of men, to conduct and to direct, Law and Justice I established in the land, for the good of the people.

1. If a man has laid a curse upon another man, and it is not justified, the layer of the curse shall be slain.

2. If a man has thrown a spell upon another man, and it is not justified, he who has suffered the spell shall proceed to the holy river: into the holy river shall he plunge. If the holy river seize him, the layer of the spell shall take his house. If the holy river hold him guiltless, and he remains unharmed, the layer of the spell shall be slain. He that plunged into the holy river shall take the house of the layer of the spell.

3. If in a lawsuit a man gives false evidence, and the word he has spoken is not justified: then if that case involve a life, that man shall be slain.

4. If he has given evidence [R. Col. VI] concerning corn or silver, then he shall bear the penalty involved in that case.

5. If a judge has heard a case, and given a decision, and delivered a written verdict, and if afterwards his case be disproved, and that judge be convicted as the cause of the misjudgment; then shall he pay twelve times the penalty awarded in that case. In public assembly he shall be thrown from the seat of judgment; he shall not return; and he shall not sit with the judges upon a case.

6. If a man steal the goods of a god, or a great house, that man shall be slain. And whoever receives the booty at his hand shall be slain also.

7. If a man has bought silver, or gold, or man slave, or woman slave, or ox, or sheep, or ass, or anything else, from the hands of a man's child, or a man's slave, without elder or contract, or receives them on deposit, that man shall be considered a thief: he shall be slain.

8. If a Freeman has stolen an ox, or a sheep, or an ass, or a pig, or a boat, either from a god or a great house, he shall pay thirty-fold. If he be a plebeian, he shall render ten-fold. If the thief has nothing to pay, he shall be slain.

9. If a man has lost anything [R. Col. VII], and finds it in the hands of another; if the holder says, "A seller sold it me; before the elders I bought it." And if the claimant says, "I can produce witnesses who will recognize my property." Then the purchaser shall bring the vendor who gave it him, and the elders before whom he bought it; and the claimant the witnesses recognizing his lost property. The judge shall weigh their evidence. The elders before whom the purchase was made, and the witnesses recognizing the property, shall affirm before

God what they know. The seller shall be held for a thief, and slain; the claimant shall receive back his lost property; and the purchaser shall receive back the money he paid from the house of the seller.

10. If the purchaser have not produced the seller from whom he received it, and the elders before whom he bought it; but the claimant has brought witnesses recognizing the property; then the purchaser shall be held for a thief, and slain; and the owner shall take his lost property.

11. If the claimant has not brought his witnesses recognizing the property [R. Col. VIII], he has acted in bad faith; he has calumniated; he shall be slain.

12. If the seller has gone to his fate, then from his house the purchaser shall claim five-fold as the penalty in the case.

13. If that man has not the elders at hand, the judge shall give him a time, up to six months. If in six months his witnesses do not appear, he has acted in bad faith; the penalty of that case he shall bear.

14. If a man has stolen a man's son under age, he shall be slain.

15. If a man has brought a male or female slave of a great house, or the male or female slave of a plebeian, to pass out of the gate, he shall be slain.

16. If a man has harboured in his house a fugitive male or female slave of a great house, or of a plebeian, and has not brought them to the order of the bailiff, that householder shall be slain.

17. If a man has seized in the field a fugitive slave, male or female, and has brought him back to his lord: the owner of the slave shall pay him two shekels of silver.



18. If that slave will not name his owner : to the great house he shall be brought : his past shall be investigated, to his lord he shall be delivered.

19. If that slave be hidden in his house, and be arrested in his hands [R. Col. IX], that man shall be slain.

20. If a slave has escaped from the hand of his captor, the latter shall swear by the name of God to the owner of the slave, and shall be guiltless.

21. If a man has broken into a house, before the breach shall he be slain, and there buried.

22. If a man has perpetrated brigandage, and has been caught, that man shall be slain.

23. If the brigand has not been taken, the man plundered shall claim before God what he has lost ; and the city and sheriff in whose land and boundary the theft has taken place shall restore to him all that he has lost.

24. If a life, the city and sheriff shall pay one mina of silver to his people.

25. If a fire break out in a man's house, and another man has gone to extinguish it, and has lifted his eyes upon the goods of the householder, and has taken the goods of the householder ; that man shall be thrown into the same fire.

26. If a heavy-armed or a light-armed [soldier] has been ordered upon " the way of the king " [R. Col. X], and has not gone, but has hired a substitute, that soldier shall be slain. The substitute shall take his house.

27. If a heavy-armed or a light-armed [soldier] has been taken in a " misfortune of the king," and his field and orchard have been given to another to administer ;

when he returns and regains his city, he shall receive back his field and orchard and shall administer them.

28. If a heavy-armed or a light-armed [soldier] has been taken in a "misfortune of the king," and his son can work them; field and orchard shall be given him, and the affairs of his father he shall administer.

29. If his son be under age, and unable to administer his father's affairs, then a third part of the field and orchard shall be given to his mother, and his mother shall bring him up.

30. If a heavy-armed or a light-armed [soldier] has neglected his field, his orchard, and his house, instead of working them; and another take his field, his orchard, and his house, and work them for three years; if he returns and desires to till his field, his orchard, and his house, they shall not be given him [R. Col. XI]. He that has taken and worked them shall continue to use them.

31. If one year only he had neglected them, and he returns; field, orchard, and house shall be restored to him, and he shall work them.

32. If a heavy-armed or a light-armed [soldier] has been taken prisoner on "the way of the king," and a trader ransoms him, and brings him back to his city; then, if his house contain sufficient for his ransom, he personally shall pay for his liberation. If his house do not contain sufficient, the temple of his city shall pay. If the temple of his city have not the means, the great house shall ransom him. His field, his orchard, and his house shall not be given for his ransom.

33. If a prefect or a brigadier permits evasion of service, and accepts a hired mercenary to go on "the

way of the king," that prefect or brigadier shall be slain.

34. If a prefect or a brigadier has taken away the property of a soldier, has injured a soldier, has given a soldier for hire, has abandoned the soldier to a superior in a lawsuit, or taken away from the soldier a gift of the king, that prefect or brigadier shall be slain.

35. If any man purchase cattle or sheep that the king has given to a soldier [R. Col. XII], he shall lose his money.

36. Neither field, nor orchard, nor house of a heavy-armed, or light-armed, or a feudatory, shall be sold separately for silver.

37. If a man has bought the field, orchard, or house of a heavy-armed, or a light-armed, or a feudatory, his contract-tablet shall be broken, his money shall be forfeited, and the field, orchard, or house shall be returned to the owner.

38. A heavy-armed or a light-armed [soldier] or a feudatory may not assign his field, or orchard, or house to his wife or his daughter; neither can they be pledged for debt.

39. He may bequeath in writing to his wife or daughter a field, an orchard, or a house that he may have bought, and may pledge it for debt.

40. He may sell his field, his orchard, or his house to a priestess, a trader, or another feudatory; and the purchaser may work the field, orchard, or house that he has bought.

41. If a man has enclosed the field, orchard, or house of a heavy-armed or a light-armed [soldier] or a feudatory, and has provided the stakes; if the heavy-armed or light-armed [soldier] or feudatory return into

the field, orchard, or house, he shall pay for the stakes that have been provided.

42. If a man take a field to farm, and grows no corn on the field [R. Col. XIII], he shall be accused of neglecting to work the field; and he shall give to the lord of the field an amount of corn according to the yield of the district.

43. If he have not cultivated the field, but has let it lie fallow, he shall give corn like its neighbour to the lord of the field. And the field that lay fallow he shall hoe and sow, and to the lord of the field restore it.

44. If a man lease unreclaimed land for three years for cultivation, but has been lazy and has not worked the field; in the fourth year he shall break up the field, hoe it, and sow it, and to the lord of the field restore it. And he shall measure out to him ten *gur* of corn for each *gan*.

45. If a man has let his field to a cultivator for a rental, and has received the rental; and if afterwards the god Adad [*i.e.*, a thunderstorm] has flooded the field and destroyed the harvest, the loss is to the cultivator.

46. If he has not received the rental of his field, or has let it for one-half or one-third of the crop, then the cultivator and the lord of the field shall take their proportions of the corn that is left in the field.

47. If the cultivator, because he had made no profit in the preceding year, has sub-let the field for tillage, the lord of the field cannot condemn the cultivator. His field has been tilled, and at the harvest he shall take corn according to his contract.

48. If a man owe a debt [R. Col. XIV], and the god Adad has flooded his field, or the harvest has been

destroyed, or the corn has not grown through lack of water, then in that year he shall not pay corn to his creditor. He shall dip his tablet in water, and the interest of that year he shall not pay.

49. If a man has received silver from a trader, and has given to the trader a cornfield or sesame field, saying, "I will plant the field with corn or sesame; take and reap whatever there is," then, when the cultivator has grown corn or sesame on the field, the lord of the field shall take corn or sesame, whatever is upon the field at the harvest; and shall give to the trader corn for the silver he has received from the trader, and for its interest; and sustenance for the cultivator.

50. If an already sown field, or a field already planted with sesame, has been given, the lord of the field shall take the corn or sesame which is in the field, and he shall render silver and interest to the trader.

51. If he has not silver to pay back, he shall give to the trader sesame according to the value of the silver he has received, with its interest, at the royal tariff [R. Col. XV].

52. If the cultivator has not grown corn or sesame in the field, his contract shall not be annulled.

53. If a man has been too lazy to strengthen his dyke, and has not strengthened the dyke, and a breach has opened in the dyke, and the ground has been flooded with water, the man in whose dyke the breach has opened shall reimburse the corn he has destroyed.

54. If he has not corn to reimburse, he and his goods shall be sold for silver, and it shall be divided among those whose corn has been destroyed.

55. If a man has opened his irrigation ditch, and, through negligence, his neighbour's field is flooded with water, he shall measure back corn according to the yield of the district.

56. If a man has opened the waters and flooded the planted field of his neighbour, he shall measure back ten *gur* of corn for each *gan*.

57. If a shepherd has put his sheep to grass without an understanding with the lord of the field; and, unknown to the lord of the field, it has been grazed by the sheep; then the lord shall reap his field, and the shepherd who has grazed his sheep unknown to the lord of the field shall pay to the latter in addition twenty *gur* of corn for every *gan*.

58. If the sheep have left the field, and have been enclosed with hurdles in a fold; and then the shepherd allows the sheep to escape, and return to the field to graze; then that shepherd shall take the field that has been re-grazed, and at the harvest he shall measure sixty *gur* of corn for each *gan* [R. Col. XVI] to the lord of the field.

59. If a man, unknown to the lord of the orchard, has cut down a tree in another man's orchard, he shall pay half a mina of silver.

60. If a man has leased a field to a gardener to be converted into an orchard and the gardener has planted it, for four years he shall attend to it; in the fifth year the lord of the orchard and the gardener shall share equally. The lord of the orchard shall choose his share and take it.

61. If the gardener has not planted all the field, but leaves a waste, the waste shall be put in his portion.

62. If the field entrusted to him has not been planted

as an orchard, and was cornland, the gardener shall measure back to the lord of the field the produce of the field according to the yield of the vicinity during the years he has neglected it. And he shall prepare the field and return it to the lord.

63. If it were waste land, he shall prepare it and restore it to the lord of the field, and he shall measure ten *gur* of corn per *gan* for each year.

64. If a man has leased an orchard to a gardener to manage it, the gardener, as long as he holds it, shall give two-thirds of the produce to the lord of the orchard; one-third he shall keep himself.

65. If the gardener has not managed the orchard, and the crop has diminished, the gardener shall measure out according to the yield of the vicinity.

(At this point of the inscription, five columns of the writing were erased at an ancient date. The following Sections are supplied from other sources, and the text of the monument is resumed at [V. Col. I].)

66. If a man has leased an orchard of dates to a gardener to manage it, and the gardener has borrowed silver from a trader; and when the trader demands payment he has nothing to give; and he has said to the trader, "The dates in my orchard take for thy silver"; the trader shall not consent. The lord of the orchard shall gather the dates which are in the orchard. The silver and its interest according to the tenour of the tablet he shall pay to the trader; and the remainder of the dates which are found in the orchard shall be taken by the lord of the orchard.

71. If a man have given corn or silver, or other things, for a house, and the house is built on to foundations or walls belonging to the house of its neighbour, then he shall lose all that he has paid, and the house shall be given back again. If the house is not built on to existing foundations or walls [but stands free], then he may buy it for corn or silver, or any other goods.

90. If a trader has lent [corn or] silver at interest, then for every *gur* of corn he shall take 100 *qa* as interest. If he has lent silver at interest, then for each shekel of silver he shall take a sixth part of a shekel, plus six grains, as interest.

91. If a man has taken a loan at interest, and has not silver for repayment, but has corn, then, in accordance with the ordinance of the king, the trader shall take interest at the rate of 100 *qa* per *gur*. If the trader objects, and seeks to receive, in addition to the 100 *qa* per *gur*, the interest of a sixth part of a shekel and six grains for each shekel of silver, then he shall lose the whole of his loan.

92. If a trader has lent out corn or silver at interest and has received his interest, and the total sum of corn or silver, but afterwards pretends that the corn or silver . . . [remainder missing].

93. . . . [wanting].

94. [If a trader has received corn in part payment] and he does not bring the corn into account and has not written a new tablet, or if he has added the interest to the capital, then that trader shall pay back double the amount of the corn he has received.



95. If a trader has lent corn or silver at interest, and has delivered the silver in light weight, or the corn in light measure; or if when he collects the debt he takes the silver over weight, or the corn over measure; then that trader shall lose the whole amount that he has lent.

96. If a trader has lent corn or silver, and it is a day when the elders are not sitting, then he shall lose the whole amount that he has lent.

97. If a man has borrowed corn or silver from a trader, and has not corn or silver for repayment, but has other goods, then he must show whatever he has before the witnesses, and shall give what he has to his trader. The trader may not refuse to accept it.

98. . . . [wanting].

99. . . . [wanting].

100. If a man has lent silver to another man for joint business, then the resulting gain or loss shall be declared before God, and they shall share in equal parts.

101. If a trader has given silver to a retailer for buying and selling, and has sent him upon a journey to employ the silver he has given him, then, if he finds profit in the place where he has gone [V. Col. I], interest for the silver he has received, he shall write down; they shall reckon his days, and he shall pay to his trader. If in the place where he has gone he finds no profit, then the retailer shall pay back to the trader double the amount of the silver he has received.

102. If a trader has lent silver to a retailer as a favour, and where he has gone he has suffered loss, he shall return the capital sum to the trader.

103. If the enemy has taken from him whatever he

carried upon the road, the retailer shall swear by the name of God, and shall be absolved.

104. If a trader has entrusted corn, wool, oil, or any other goods to a retailer to trade with, the retailer shall write down the value and give it to the trader. Then shall the retailer take a sealed receipt for the silver given to the trader [in settlement].

105. If the retailer is negligent and has not taken a sealed receipt for the silver given to the trader, the silver that is not sealed shall not be carried to account.

106. If a retailer has received silver from a trader, and disputes with the trader, then the trader shall call the retailer before God and the elders regarding the silver received, and the retailer shall restore three-fold the silver he has received.

107. If a trader has wronged a retailer, and the retailer has repaid to the trader all that the trader gave him [V. Col. II], and the trader contests what has been given to him, then that retailer shall call the trader before God and the elders; and because the trader has contested with his retailer, he shall pay to the retailer six-fold of all that he has received.

108. If a (female) wine-seller has not accepted corn as the price of drink, but silver by the full weight has accepted, and has made the price of drink less than the price of corn, then that wine-seller shall be prosecuted and thrown into the water.

109. If rebels meet in the house of a wine-seller and she does not seize them and take them to the great house, that wine-seller shall be slain.

110. If a priestess or holy sister who has not remained in the convent shall open a wine-shop, or enter a wine-shop for drink, that woman shall be burned.

111. If a wine-seller has given sixty *qa* of drink on credit for a festival, at the harvest she shall receive fifty *qa* of corn.

112. If a man goes on a journey and gives to another man silver, gold, gems, or portable goods, that they may be carried home, and that man has not carried and delivered all that was given him to carry, but has kept them, then the owner shall prosecute that man for all the things carried, but not delivered, and that man shall pay five-fold to the owner for all that was given him.

113. If a man has a claim for corn or silver upon another man [V. Col. III], and without the knowledge of the owner has taken corn from the granary or store; that man, because he has taken corn from the granary or store without the knowledge of the owner, shall be prosecuted. The corn he has taken shall be returned, and all that he should have received he shall lose.

114. If a man has no claim upon another man for corn or silver, but seizes him to work for the debt, for each seizure he shall pay one-third of a mina of silver.

115. If a man has a claim upon another man for corn or silver, and seizes him for distraint, if the distrainted go to his fate in the house of the distrainer [by a natural death], then that case has no further claim.

116. If the distrainted die in the house of the distrainer through blows or ill-treatment, the superior of the distrainted shall call his trader to account. If he be freeborn, his son shall be slain; if a slave, he shall pay a third of a mina of silver; and all that he should have received he shall lose.

117. If a man has contracted a debt, and has given

his wife, his son, his daughter for silver or for labour, three years they shall serve in the house of their bondmaster; in the fourth year they shall regain their original condition.

118. If he has assigned a male or female slave for labour, and the trader sends them out, and sells them for silver, there is no claim.

119. If a man has contracted a debt, and has sold for silver a slave who has borne him children [V. Col. IV], the lord of the slave shall pay back the silver the trader has given him, and the slave shall be free.

120. If a man has stored his corn in the house of another man, and the store has been damaged, or the householder has opened the granary taking corn, or he disputes the quantity of the corn heaped up, then the owner of the corn shall pursue his corn before God, and the householder who has taken the corn shall give back double to the owner.

121. If a man has stored corn in the house of another man, he shall pay five *qa* of corn per *gur* per annum for warehousing.

122. If a man desires to deposit with another man silver, gold, or anything else, he shall exhibit all before the elders, draw up a contract, and then make the deposit.

123. If he has given on deposit without elders or contract, and where he has given they contest it, there is no claim.

124. If a man has deposited silver or gold or anything else with another man before the elders, and if that man denies it, he shall prosecute him, and all that he contests he shall replace and restore double.

125. If a man has given his goods on deposit, and in the place of deposit, either by breaking in or by climbing over, anything has been lost, together with property of the householder, then the householder in question shall make good all that was deposited with him and lost [V. Col. V], and shall restore it to the owner. The householder shall pursue his stolen goods and recover from the thief.

126. If a man has not lost everything, but says everything of his is lost, exaggerating what is lacking, then, as he has not lost everything, his lack he shall bring before God. All that he substantiates shall be made up; what he lacks shall be restored.

127. If a man point the finger against a holy sister or a man's wife unjustifiably, that man shall be thrown before the judge, and his brow shall be branded.

128. If a man take a wife and a contract has not concluded, then that woman is no wife.

129. If the wife of a man is found lying with another male, they shall be bound and thrown into the water; unless the husband lets his wife live, and the king lets his servant live.

130. If a man has forced the wife of another man, who has not known the male, and who still resides in the house of her father, and has lain within her breasts, and he is found, that man shall be slain; that woman is guiltless.

131. If a man's wife is accused by her husband, but has not been found lying with another male, she shall swear by the name of God and return into her house.

132. If the finger is pointed against a man's wife because of another male [V. Col. VI], and she has not

been found lying with another male, then she shall plunge for her husband into the holy river.

133. If a man has been taken captive, and there is food in his house, and his wife forsakes his house, and enters the house of another; then because that woman has not preserved her body, but has entered another house, then that woman shall be prosecuted, and shall be thrown into the water.

134. If a man has been taken captive, and there is no food in his house, and his wife enters the house of another, then that woman bears no blame.

135. If a man has been taken captive, and there is no food before her, and his wife has entered the house of another, and bears children, and afterwards her husband returns and regains his city, then that woman shall return to her spouse. The children shall follow their father.

136. If a man has abandoned his city and absconded, and after that his wife has entered the house of another; if that man comes back and claims his wife; because he had fled and deserted his city, the wife of the deserter shall not return to her husband.

137. If a man has set his face to divorce a concubine who has borne him children, or a priestess who has presented him with children, then he shall give back to that woman her dowry, and he shall give her the usufruct of field, orchard, and property [V. Col. VII], and she shall bring up her children. After she has brought up her children, she shall take a son's portion of all that is given to her children, and the man of her choice may take her in marriage.

138. If a man divorce his spouse who has not borne him children, he shall give to her all the silver

of the bride-price, and restore to her the dowry which she brought from the house of her father; and so he shall divorce her.

139. If there were no bride-price, he shall give her one mina of silver for the divorce.

140. If he be a plebeian, he shall give her one-third of a mina of silver.

141. If a man's wife, dwelling in a man's house, has set her face to leave, has been guilty of dissipation, has wasted her house, and has neglected her husband, then she shall be prosecuted. If her husband says "she is divorced," he shall let her go her way; he shall give her nothing for divorce. If her husband says "she is not divorced," her husband may espouse another woman, and that woman shall remain a slave in the house of her husband.

142. If a woman hate her husband, and say "Thou shalt not possess me," the reason for her dislike shall be inquired into. If she is careful, and has no fault, but her husband takes himself away and neglects her, then that woman is not to blame [V. Col. VIII]. She shall take her dowry and go back to her father's house.

143. If she has not been careful, but runs out, wastes her house, and neglects her husband, then that woman shall be thrown into the water.

144. If a man has married a priestess, and that priestess has given to her husband a female slave and caused him to have children; then, if that man has set his face to marry a concubine, he shall not be permitted; he shall not marry a concubine.

145. If a man has married a priestess and she has not presented him with children, and he has set his

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face to marry a concubine; if that man marries a concubine and brings her into his house, then that concubine shall not rank with the priestess.

146. If a man has married a priestess, and she has given to her husband a female slave, who bears children; and afterwards that slave ranks herself with her mistress, because she has borne children, her mistress may not sell her for silver. She may be fettered, and counted among the slaves.

147. If she has not borne children, her mistress may sell her for silver.

148. If a man has married a wife, and sickness has seized her, and he has set his face to marry another, he may marry; but his wife whom the sickness has seized he shall not divorce. She shall dwell in the house he has built, and he shall support her while she lives [V. Col. IX].

149. If that woman is not content to dwell in the house of her husband, he shall return to her the dowry she brought from her father's house, and she shall go.

150. If a man has given to his wife field, orchard, house, or goods, and has given her a sealed tablet, then after her husband [has gone to his fate] her children have no claim. The mother can give what she leaves behind to the children she prefers. To brothers she shall not give.

151. If a woman who dwells in a man's house has bound her husband not to assign her to a creditor, and has received a tablet; then, if that man had a debt upon him before he married that woman, his creditor may not seize his wife. And if that woman had incurred debt before she entered the man's house, her creditor may not seize her husband.



152. If, after that woman has entered the man's house, they incur debt, both of them must satisfy the trader.

153. If a man's wife, because of another male, has killed her husband, that woman shall be impaled upon a stake.

154. If a man has known his daughter, that man shall be banished from his city.

155. If a man has betrothed a bride to his son, and his son has known her; and afterwards he has lain in her breasts, and he is found; that man shall be bound and thrown into the water [V. Col. X].

156. If a man has betrothed a bride to his son, and his son has not known her, and he has lain in her breasts, he shall pay half a mina of silver; and all that she brought from her father's house shall be returned to her, and the man of her choice may take her in marriage.

157. If a man after his father has lain in the breasts of his mother, both of them shall be burned.

158. If a man after his father is discovered in the breasts of his lady, who has borne children, that man shall be cut off from his father's house.

159. If a man has brought goods into the house of his father-in-law, and has given the bride-price, and has looked upon another woman, and has said to his father-in-law, "Thy daughter I will not marry," then the father of the girl shall retain all that has been brought.

160. If a man has brought goods into the house of the father-in-law, and has given the bride-price, and the father of the girl says, "I will not give thee my

daughter," he shall repay double of all that has been brought him.

161. If a man has brought goods into the house of his father-in-law, and has given the bride-price, and his friend has slandered him, and the father-in-law has said to the husband of the wife, "My daughter thou shalt not marry," he shall repay double of all that has been brought him; and his wife shall not marry his friend.

162. If a man has married a wife, and she has borne children, and that woman has gone to her fate [V. Col. XI], then her father has no claim upon her dowry. The dowry is her children's.

163. If a man has married a wife, and she has presented no children to him, and that woman has gone to her fate; if the bride-price which that man brought to the house of his father-in-law has been returned to him by his father-in-law, then the husband has no claim upon that woman's dowry. The dowry is to her father's house.

164. If his father-in-law has not returned the bride-price in her dowry, then he shall deduct all her bride-price, and shall give back her dowry to her father's house.

165. If a man has made a gift of field, or orchard, or house, to his son, the first in his eyes, and has sealed him a tablet; then, after the father has gone to his fate, when the brothers divide he shall retain the father's present which he has given him over and above the equal part that he shares in the possessions of his paternal house.

166. If a man has married wives to the children he has had, but has not married a wife to an infant son;

then, after the father has gone to his fate, when the brethren share the possessions of the paternal house, they shall give silver for a bride-price to their infant brother who has not married a wife, besides his share, and he shall be married to a wife.

167. If a man has married a wife, and she has borne him children, and that woman has gone to her fate; and after her he has married another woman who bears him children; then, after the father has gone to his fate [V. Col. XII], the children shall not share according to the mothers, but they shall take the dowries of their own mothers. The possessions of their paternal house they shall share equally.

168. If a man has set his face to disown his son, and has said to the judge, "I disown my son," then the judge shall look into his reasons. If the son has not borne a heavy crime which would justify his being disowned from filiation, then the father shall not disown his son from filiation.

169. If he has committed against his father a heavy crime justifying his being disowned from filiation, then for his first offence he shall turn aside his face. If he commit a heavy crime the second time, the father shall disown his son from filiation.

170. If a man whose spouse has born him children, and whose female slave has borne him children, and the father in his lifetime has said to the children of the female slave "my children," and has counted them with the children of his spouse, and after that the father has gone to his fate; then the children of the spouse and the children of the female slave shall share the possessions of the paternal house equally.

## 38 THE TEXT OF THE INSCRIPTION

The sons that are children of the wife shall choose and allot in the division.

171a. And if the father in his lifetime has not said to the children whom the female slave has borne him "my children," and afterwards the father has gone to his fate, the children of the female slave shall not share with the children of the spouse. The slave and her children shall be emancipated, and the children of the spouse shall have no claim for service upon the children of the slave.

171b. The spouse shall take her dowry, and the settlement which her husband made her and wrote in a tablet for her, and she shall dwell in the domicile of her husband [V. Col. XIII]. While she lives she shall enjoy it; she may not sell it for silver, but after her it is her children's.

172a. If her husband has not made her a settlement, her dowry shall be returned to her, and she shall receive a portion of the possessions of her husband's house equal to that of a son. If her children annoy her, to make her leave the house, the judge shall look into the reasons; and if the children be in fault, that woman shall not leave her husband's house.

172b. If that woman has set her face to depart, she shall surrender to her children the settlement which her husband made her. She shall retain the dowry from her father's house, and the man of her choice may take her in marriage.

173. If that woman where she has gone bears children to her later husband, and afterwards the woman dies, her former and her latter children shall share her dowry.

174. If she bears no children to her later hus-

band, the children of her former consort take her dowry.

175. If either a slave of a great house, or the slave of a plebeian, marry the daughter of a free man, and she bears children, the owner of the slave has no claim for service upon the children of the free man's daughter.

176a. And if a slave of a great house, or the slave of a plebeian, marry the daughter of a free man, and when she marries she enters the house of the slave of a great house or the plebeian's slave with a dowry from the house of her father; and when they are settled and have founded a house they have acquired property, and afterwards the slave of a great house or the slave of the plebeian has gone to his fate, then the daughter of the free man shall take her dowry [V. Col. XIV], and all that her husband and herself have acquired since they settled shall be divided into two parts: the owner of the slave shall take half, and the free man's daughter shall take half for her children.

176b. If the free man's daughter had no dowry, all that her husband and herself have acquired since they settled shall be divided into two parts: the owner of the slave shall take half, and the free man's daughter shall take half for her children.

177. If a widow who has infant children has set her face to enter a second house, she shall not enter without [consent] of the judge. When she would enter the second house the judge shall inquire into the residue of her former husband's house. The house of her former husband and that woman shall be entrusted to the house of her later husband, and a tablet shall

be delivered to them. They shall maintain the house and bring up the infants. They may sell nothing for silver. The purchaser who buys any vessel belonging to the widow's children shall lose his silver, and the property shall return to its owner.

178. If a holy sister, priestess, or hierodule, her father has given her a dowry, and has written a tablet; but has not written in the tablet that what she leaves behind her she may give as she sees good, and has not allowed the fullness of her heart; and afterwards the father has gone to his fate; then her brothers shall take her field or her orchard, and according to the value of her share they shall give her corn, oil, and wool, and her heart shall be satisfied. If her brothers have not given her corn, oil, and wool according to the value of her share, and her heart is not satisfied [V. Col. XV], then her field or her orchard shall be entrusted to the cultivator whom she sees good, and her cultivator shall sustain her. While she lives she shall enjoy field and orchard and everything which her father has given her; but she may not sell for silver nor alienate to another. Her inheritance is to her brothers.

179. If a holy sister, priestess, or hierodule, her father has given her a dowry, and has written a deed, and has written in the tablet that what she leaves behind her she may give as she sees good, and has allowed the fullness of her heart; then after her father has gone to his fate, she may give what she leaves behind to whom she sees good. Her brothers have no claim.

180. If the father has not given a dowry to his daughter, a priestess in a convent or a hierodule, then

after the father has gone to his fate, she shall take out of the possessions of the paternal house the portion of one son. She shall enjoy it during her life. What she leaves behind is to her brothers.

181. If the father has dedicated a priestess, consecrated woman, or temple maiden, to God, and has not given her a dowry; after the father has gone to his fate she shall take out of the possessions of the paternal house one-third of the portion of a son. She shall enjoy it during her life. What she leaves behind is to her brothers.

182. If the father has not given a dowry to his daughter, a "priestess of Merodach of Babylon," and not written a deed; then after the father has gone to his fate she shall take out of the possessions of the paternal house one-third of the portion of a son with her brothers. She shall not have the management. The "priestess of Merodach" may give what she leaves behind to whom she sees good [V. Col. XVI].

183. If the father has provided a dowry for his daughter by a concubine, has given her to a husband, and written her a deed; then after the father has gone to his fate she shall not share in the possessions of the paternal house.

184. If the father has not provided a dowry for his daughter by a concubine, and has not given her to a husband; then after the father has gone to his fate her brothers shall provide her a dowry according to the wealth of the paternal house, and give her to a husband.

185. If a man has taken an infant to adopt into his own name, and brought him up, that adopted son may not be reclaimed.

186. If a man has adopted an infant, and when he has taken him he injures his father and his mother, then that adopted son shall return to his father's house.

187. The [adopted] son of a servitor, a doorkeeper of a great house, and the [adopted] son of a hierodule may not be reclaimed.

188. If a son of the people has taken a child to adoption, and has taught him his handicraft, he may not be reclaimed.

189. If he has not taught him his handicraft, that adopted son shall return to his father's house.

190. If a man has adopted an infant as a son, and brought him up, but has not reckoned him with his children, then that adopted son shall return to his father's house.

191. If a man has adopted an infant as a son, and brought him up, and has founded a household, and afterwards has had children, and if he has set his face to disown the adopted son, then that child shall not go his way. His foster-father shall give him out of his possessions one-third of the portion of a son, and then he shall go. Of field, or orchard, or house he shall not give him [V. Col. XVII].

192. If the [adopted] son of a servitor, or the [adopted] son of a hierodule, has said to his foster-father or his foster-mother, "Thou art not my father," or "Thou art not my mother," his tongue shall be cut out.

193. If the [adopted] son of a servitor, or the [adopted] son of a hierodule, has come to know his father's house, and he despises his foster-father and his foster-mother, and goes to the house of his father, his eyes shall be torn out.

194. If a man has given his child to a nurse, and



the child dies in the hand of the nurse, and the nurse without the knowledge of his father and his mother substitutes another child, she shall be prosecuted, and because she has substituted another child without the knowledge of his father and his mother her breasts shall be cut off.

195. If a son has struck his father, his hands shall be cut off.

196. If a man has destroyed the eye of a Freeman, his own eye shall be destroyed.

197. If he has broken the bone of a Freeman, his bone shall be broken.

198. If he has destroyed the eye of a plebeian, or broken a bone of a plebeian, he shall pay one mina of silver.

199. If he has destroyed the eye of a man's slave, or broken a bone of a man's slave, he shall pay half his value.

200. If a man has knocked out the teeth of a man of the same rank, his own teeth shall be knocked out.

201. If he has knocked out the teeth of a plebeian, he shall pay one-third of a mina of silver.

202. If a man strike the body of a man who is great above him, he shall receive sixty lashes with a cowhide whip in the assembly.

203. If a Freeman strike the body of the son of a Freeman of like condition, he shall pay one mina of silver.

204. If a plebeian strike the body of a plebeian, he shall pay ten shekels of silver.

205. If a man's slave strike the body of the son of a free man [V. Col. XVIII], his ear shall be cut off.

206. If a man has struck another man in a dispute

and wounded him, that man shall swear "I did not strike him knowingly," and he shall pay for the doctor.

207. If he die of his blows, he shall swear likewise; and if it be the son of a Freeman, he shall pay half a mina of silver.

208. If he be the son of a plebeian, he shall pay a third of a mina of silver.

209. If a man strike the daughter of a Freeman and cause her foetus to fall, he shall pay ten shekels of silver for her foetus.

210. If that woman die, his daughter shall be slain.

211. If he has caused the daughter of a plebeian to let her foetus fall through blows, he shall pay five shekels of silver.

212. If that woman die, he shall pay half a mina of silver.

213. If he has struck the slave of a man and made her foetus fall, he shall pay two shekels of silver.

214. If that slave die, he shall pay a third of a mina of silver.

215. If a doctor has treated a Freeman with a metal knife for a severe wound, and has cured the Freeman, or has opened a Freeman's tumour with a metal knife, and cured a Freeman's eye, then he shall receive ten shekels of silver.

216. If the son of a plebeian, he shall receive five shekels of silver.

217. If a man's slave, the owner of the slave shall give two shekels of silver to the doctor.

218. If a doctor has treated a man with a metal knife for a severe wound, and has caused the man to die, or has opened a man's tumour with a metal knife and destroyed the man's eye, his hands shall be cut off.

219. If a doctor has treated the slave of a plebeian with a metal knife for a severe wound and caused him to die, he shall render slave for slave.

220. If he has opened his tumour with a metal knife and destroyed his eye, he shall pay half his price in silver.

221. If a doctor has healed a Freeman's broken bone [V. Col. XIX] or has restored diseased flesh, the patient shall give the doctor five shekels of silver.

222. If he be the son of a plebeian, he shall give three shekels of silver.

223. If a man's slave, the owner of the slave shall give two shekels of silver to the doctor.

224. If a doctor of oxen or asses has treated either ox or ass for a severe wound, and cured it, the owner of the ox or ass shall give to the doctor one-sixth of a shekel of silver for his fee.

225. If he has treated an ox or an ass for a severe wound and caused it to die, he shall give the quarter of its price to the owner of the ox or the ass.

226. If a brander, unknown to the owner of a slave, has branded him with the mark of an inalienable slave, the hands of that brander shall be cut off.

227. If a man deceive a brander into branding with the mark of an inalienable slave, that man shall be slain and buried in his own house. The brander shall swear "I did not brand him with knowledge," and he shall be guiltless.

228. If a builder has built a house for a man and completed it, he shall give him for his pay two shekels of silver for each *sar* [of surface] of the house.

229. If a builder has built a house for a man and his work is not strong, and if the house he has built

falls in and kills the householder, that builder shall be slain.

230. If the child of the householder be killed, the child of that builder shall be slain.

231. If the slave of the householder be killed, he shall give slave for slave to the householder.

232. If goods have been destroyed, he shall replace all that has been destroyed; and because the house that he built was not made strong, and it has fallen in, he shall restore the fallen house out of his own material.

233. If a builder has built a house for a man, and his work is not done properly and a wall shifts [V. Col. XX], then that builder shall make that wall good with his own silver.

234. If a boat-builder has built a sixty-ton boat for a man, he shall give him two shekels of silver for his pay.

235. If a boat-builder has built a boat for a man and his work is not firm, and in that same year that boat is disabled in use, then the boat-builder shall overhaul that boat and strengthen it with his own material, and he shall return the strengthened boat to the boat-owner.

236. If a man has given his boat on hire to a boatman, and the boatman is careless, and the boat is sunk and lost, then the boatman shall replace the boat to the boat-owner.

237. If a man has hired boatman and boat, and laden her with corn, wool, oil, dates, or any other kind of freight, and if that boatman is careless and sinks the boat, and her cargo is lost, then the boatman shall replace the boat he has sunk and all her cargo that he has lost.

238. If a boatman has sunk a man's boat and refloated her, he shall give silver to half her value.

239. If a man hire a boatman, he shall give him six *gur* of corn per annum.

240. If a cruising boat has run into a cargo boat and sunk her, the owner of the sunken boat shall pursue all that was lost in his boat before God. The cruiser shall replace to the cargo boat that was sunk, his boat and all that was lost in her.

241. If a man distrain an ox, he shall pay a third of a mina of silver.

242. If a man hires for a year, the fee for a draught ox is four *gur* of corn.

243. The fee for a milch-cow is three *gur* of corn given to the owner [V. Col. XXI].

244. If a man has hired an ox or an ass, and a lion has killed it in the open country, then it is to the owner.

245. If a man has hired an ox, and by neglect or by blows has caused its death, he shall replace ox by ox to the owner of the ox.

246. If a man has hired an ox and broken its foot or cut the nape of its neck, he shall replace ox by ox to the owner of the ox.

247. If a man has hired an ox and has knocked out its eye, he shall give silver to the owner of the ox for half its value.

248. If a man has hired an ox and has broken off its horn, or cut off its tail, or damaged its muzzle, he shall give silver for a quarter of its value.

249. If a man has hired an ox and God has struck it, and it has died, then the man who hired the ox shall swear by the name of God, and shall be guiltless.

250. If a mad bull meet a man in the highway and gore him, and kill him, that case has no remedy.

251. If a man's ox is known to be addicted to goring, and he has not blunted his horns, nor fastened up his ox, then if his ox has gored a free man and killed him he shall give half a mina of silver.

252. If it be a man's slave, he shall give a third of a mina of silver.

253. If a man has let his field to another man to dwell upon its face, and has given him seed corn and entrusted him with draught oxen, and has contracted with him to cultivate the field, and if that man has stolen seed or crop, and they are found in his hands, his hands shall be cut off.

254. If he has received the seed, but worn out the oxen, he shall replace by hoed corn.

255. If he has given the man's draught oxen on hire, or stolen the seed-corn and not grown it in the field, that man shall be prosecuted, and he shall measure out sixty *gur* of corn for every *gan*.

256. If he is not able to advance the compensation, he shall be placed with the cattle in the field [V. Col. XXII].

257. If a man hire a field-labourer, he shall give him eight *gur* of corn per annum.

258. If a man hire a herdsman, he shall give him six *gur* of corn per annum.

259. If a man has stolen a water-wheel from the estate, he shall give five shekels of silver to the owner of the wheel.

260. If he has stolen an irrigating bucket or a harrow, he shall pay three shekels of silver.

261. If a man hire a pasturer for cattle and sheep, he shall give him eight *gur* of corn per annum.

262. If a man either ox or sheep . . . [defaced].

263. If he has lost ox or sheep that has been entrusted to him, he shall replace ox by ox, sheep by sheep, to the owner.

264. If a [herdsman] who has had cattle or sheep given him to pasture, and has been paid his wages as agreed, and his heart is satisfied, and if the cattle he has made to diminish, or the sheep he has made to diminish, and has made the progeny to decline, then he shall give progeny and number according to his agreement.

265. If a herdsman to whom cattle and sheep have been given to pasture has lied, and has altered the bargain, and sold for silver, then he shall be prosecuted. He shall restore cattle or sheep to their owner tenfold what he has stolen.

266. If a stroke of God has occurred in a fold, or a lion has slain, then the herdsman shall clear himself before God, and the owner of the fold shall meet the disaster to the fold.

267. If the herdsman is in fault, and has been the occasion of the loss in the fold, then the herdsman shall restore the cattle and sheep which he has caused to be lost in the fold, and shall give them back to the owner.

268. If a man has hired an ox for threshing, twenty *qa* of corn is its hire.

269. If an ass has been hired for threshing, ten *qa* of corn is its hire.

270. If a young animal has been hired for threshing, one *qa* of corn is its hire.

271. If a man hire cattle, wagon, and driver, he shall give 180 *qa* of corn per diem [V. Col. XXIII].

272. If a man has hired a wagon by itself, he shall give forty *qa* of corn per diem.

273. If a man hire a workman, then from the beginning of the year until the fifth month he shall give six grains of silver per diem. From the sixth month until the end of the year he shall give five grains of silver per diem.

274. If a man hire a son of the people,

- |                              |                         |
|------------------------------|-------------------------|
| (a) Pay of a.....            | five grains of silver,  |
| (b) Pay of a potter          | five grains of silver,  |
| (c) Pay of a weaver of linen | five grains of silver,  |
| (d) Pay of a stonemason      | ..... grains of silver, |
| (e) Pay of a.....            | ..... of silver,        |
| (f) Pay of a.....            | ..... of silver,        |
| (g) Pay of a carpenter       | four grains of silver,  |
| (h) Pay of a leather-worker  | four grains of silver,  |
| (i) Pay of a boat-builder    | ..... grains of silver, |
| (j) Pay a house-builder      | ..... grains of silver, |

he shall give per diem.

275. If a man hire a boat [?], her hire is three grains of silver per diem.

276. If a man hire a cruising boat, he shall give two and a half grains of silver per diem for her hire.

277. If a man hire a sixty-ton boat, he shall give a sixth part of a shekel of silver per diem for her hire.

278. If a man has bought a slave, male or female, and before his month has expired epilepsy has developed, then he shall return him to the vendor, and the buyer shall receive back the purchase-money.

279. If a man has bought a slave, male or female, and there is a claim, then the vendor shall answer the claim.

280. If a man has bought another man's slave, male or female, in a foreign land, and when he has come



into the midst of the country the master of the slave recognizes his male or female slave, then, if they are children of the land, he shall give them their freedom without price.

281. If they are children of another land, the purchaser shall take oath before God as to the silver he has paid; and the owner of the slave, male or female, shall give to the trader the silver that he has paid, and shall recover his male or his female slave.

282. If a slave shall say to his master, "Thou art not my master," he shall be prosecuted as a slave, and his owner shall cut off his ear [V. Col. XXIV].

The judgments of justice which Hammurabi, the mighty king, has established, conferring upon the land a sure guidance and a gracious rule.

Hammurabi, the protecting king, am I. I have not withdrawn myself from the blackheaded race that Bel has entrusted to me, and over whom Merodach has made me shepherd. I have not reposed myself upon my side, but I have given them places of peace. Difficult points have I made smooth, and radiance have I shed abroad. With the mighty weapon that Zamama and Ishtar have lent me, with the penetration with which Ea has endowed me, with the valour that Merodach has given me, I have rooted out all enemies above and below, and the depths have I subjugated. The flesh of the land I have made rejoice: the resident people I have made secure; I have not suffered them to be afraid. It is I that the great gods have elected to be the Shepherd of Salvation, whose sceptre is just. I throw my good shadow over my city. Upon my bosom I cherish the men of

the lands of Sumer and Akkad. By my protecting genius, their brethren in peace are guided: by my wisdom are they sheltered. That the strong may not oppress the weak; that the orphan and the widow may be counselled; in Babylon, the city whose head has been lifted up by Anu and Bel; in E Sagila, the temple whose foundations are as solid as heaven and earth: to proclaim the law of the land: to guide the procedure of the land, and to sustain the feeble, I have written my precious words upon my pillar, and before my image as King of Justice I have placed it.

I am the monarch who towers above the kings of the cities. My words are well weighed; my valour has no equal. By command of Shamash, the great judge of heaven and earth, my justice shall glisten in the land. By direction of Merodach, my lord, my monument shall never see destruction. In E Sagila that I love my name shall ever be spoken [V. Col. XXV]. The oppressed who has a lawsuit shall come before my image as king of justice. He shall read the writing on my pillar, he shall perceive my precious words. The word of my pillar shall explain to him his cause, and he shall find his right. His heart shall be glad [and he shall say] "The Lord Hammurabi has risen up as a true father to his people; the will of Merodach, his god, he has made to be feared; he has achieved victory for Merodach above and below. He has rejoiced the heart of Merodach, his lord, and gladdened the flesh of his people for ever. And the land he has placed in order." Reading the mandates, he shall pray before my lord Merodach and my lady Zarpanit with a full heart; and the guardian spirits,

the deities, who reside in E Sagila within E Sagila, shall daily intercede before Merodach my lord and Zarpanit my lady.

In after days, and for all time, the ruler who is in the land shall observe the words of justice which are written upon my pillar. He shall not alter the law of the land which I have formulated, or the statutes of the country that I have enacted, nor shall he damage my sculptures. If that man has wisdom, and strives to keep his land in order, he will heed the words which are written upon my pillar. The canon, the rule, the law of the country which I have formulated, the statutes of the country that I have enacted, this pillar shall show to him. The black-headed people he shall govern; their laws he shall pronounce, their statutes he shall decide. He shall root out of the land the perverse and the wicked, and the flesh of his people he shall delight.

Hammurabi, the king of justice, am I, to whom Shamash has granted rectitude. My words are well weighed, my deeds have no equal; above and below I am the whirlwind that scours the depth and the height [V. Col. XXVI]. If that man heeds my words that I have engraved upon my pillar, departs not from my laws, alters not my words, changes not my sculptures, then may Shamash make the sceptre of that man to endure as long as I, the king of justice, and to lead his people with justice.

But if that man heed not my words that I have written upon my pillar; if he has scorned my malediction, nor feared the curse of God; if he has annulled the law that I have given, or altered my words, or changed my sculptures, or erased my name

in order to write his own; or if, from fear of these curses, he has commissioned another, then that man, whether he be king, or lord, or viceroy, or a man of any other title, may the great Anu, the father of the gods, who has decreed my reign—may he extinguish the glory of his throne, may he shatter his sceptre, may he curse his end.

May the lord Bel, who fixes fate, whose word is unalterable, and who has magnified my royalty—may he allot him a rebellion which his hand cannot quell: the breath of his ruin may he breathe upon his throne: years of sighing: fewness of days: years of famine: darkness without light: and a death with open eyes. May his deep mouth decree him the overthrow of his city, the dispersion of his people, the removal of his royalty, and the annihilation of his name and memory in the land.

May Beltis, the great mother, whose word is great in E Kur, the lady who gives ear to my desires in the place of justice and statutes before Bel—may she make his cause bad before Bel; may she put in the mouth of Bel, the king, to devastate his land, to annihilate his people, and to pour out his soul like water.

May Ea, the great prince, whose decisions take first place, the divine thinker, the omniscient, who has lengthened the days of my life [V. Col. XXVII]—may he take understanding and prudence from him; may he plunge him in forgetfulness, obstruct his rivers at their sources, and prevent the growth of corn,<sup>1</sup> the life of men, in his land.

May Shamash, the great judge of heaven and earth,

<sup>1</sup> Literally "Ashnan," the deity who presided over the growth of corn.

who maintains all living creatures, the lord who gives confidence—may he cut short his kingship, misjudge his law, obstruct his path, arrest the march of his troops, give him unpropitious visions of the uprooting of the foundation of his rule, and the ruin of his land. May the decree of Shamash hasten after him; may he lack life on earth; may he lack water among the spirits under the earth.

May Sin, the lord of the heavens, my divine creator, whose crescent shines among the gods—may he take from him diadem and throne of royalty; may he lay heavy sin upon him, with a penalty which shall never depart out of his body; may he complete the days of the months, the months of the years of his reign in sighs and tears; may the cares of government be multiplied to him; may he destine him a life which is a struggle with death.

May Adad, the lord of fertility, the prince of the heavens and the earth, my helper—may he take away from him the rains of heaven, and dry up the outflow of springs; may he waste his territory with want and famine; may he thunder his anger against his city; may he turn his dominions into ruins by tempests.

May Zamama, the great warrior, the eldest son of E Kur, who marches at my right hand upon the field of battle—may he break his weapons; may he convert his day into night, and cause his foe to triumph over him.

May Ishtar, the mistress of battles and combats, who wields my weapons, my guardian angel, who loves my reign—may she, in her passionate heart, in her deep anger, curse his royalty, turning her favours into evils [V. Col. XXVIII]; may she shatter his weapons

upon the field of battles and combats; may she bring tumult and rebellion upon him; may she overthrow his warriors, soaking the earth with their blood; may she strew the corpses of his armies in heaps over the plain, giving them no quarter; may he be delivered into the hand of his foes, a prisoner in the enemy's land.

May Nergal, the mighty among the gods, whose onslaught none can withstand, who has granted me victory—with his mighty force may he burn up his people like a wisp of rushes; with his powerful weapons may he lop off his limbs, and shatter him like an image of clay.

May Nintu, the sublime lady of the lands, my creative mother—may she deny him offspring, and leave him no name, and create no seed of mankind in the habitations of his people.

May Nin-Karrasha, the daughter of Anu, the herald of my mercy in E Kur—may she let loose in his members a violent sickness, a noisome pestilence, a fearsome wound which cannot be cured, whose nature no doctor can tell, that cannot be assuaged by bandage, which—like the bite of death—cannot be avoided, until she conquer his life; and over the loss of his vigour he shall groan.

May the great gods of heaven and earth, the Anunaki in their assembly, the circuit of this temple of E Babbara—may they all curse him with deadly curses, his seed, his land, his army, his people, and his servitors.

May Bel, whose word is irrevocable—may he curse him with a mighty curse, which shall immediately take effect.

## CHAPTER IV

### NOTES ON THE CODE

IN order to avoid breaking up the text of the inscription with notes, all remarks upon it are relegated to this chapter. The legislative part is usually cited by the numbers of the sections, as divided by Professor Scheil; but this numbering does not extend to the prologue and epilogue, which are always quoted by the columns of the original. In this book, therefore, the columns are indicated all through in square brackets. Those on the front, or *recto*, being marked [R. Col. I], etc., and those on the back, or *verso* [V. Col. I]. §§ 171, 172 appear to have been incorrectly divided by Professor Scheil, but it would lead to confusion to alter the numeration. By a printer's error in Professor Scheil's book (pp. 84, 85) two successive paragraphs have the same number, § 176; therefore these are now distinguished *a* and *b*.

The Babylonians were a literary people, and all matters of business were put on record. We might therefore expect among the thousands of tablets that have come down to us to find many that would illustrate the provisions of the Code. The difficulties are that most of these records are fragmentary and do not yield a connected sense, the language is involved and redundant, the legal phrases employed are not always obvious, and the contracts are crowded with

uncouth names. As a consequence the perusal of many such documents is apt to be irritating rather than helpful. Some writers content themselves with giving summaries of the tablets, and this is often sufficient. In other cases the text can be condensed and simplified somewhat for the benefit of the general reader. Many important contract tablets have been collected together by Dr. A. Ungnad in *Hammurabis Gesetze* (Leipzig, 1909), Professor Morris Jastrow in *Civilization of Babylonia and Assyria* (Philadelphia, 1915), and Dr. B. Meissner in *Babylonien und Assyrien* (Heidelberg, 1920). The present writer is much indebted to all these works.

The sections of the Code are carefully classified according to the Babylonian conceptions of law; but the last group, §§ 278-82, appears out of place. We should expect these sections to follow the other precepts regarding slavery, §§ 14-20. Evidently this group is an afterthought, or appendix, due to a revision of the Code, showing that the whole compilation has received anxious study, and been touched up where considered necessary. Nevertheless, the editor might have gone a little further and improved the wording of the sections. They may have been clear and intelligible to their first readers; but the modern student is often puzzled. Thus §§ 6, 8 refer to thefts from a temple or a great house only; thefts from the humble citizen must surely have been dealt with in the same way. § 42 speaks of corn alone; but from the context we must understand that it would apply to anything else. § 51 mentions sesame alone; whereas from § 50 it ought to comprise corn as well. In the important series of laws dealing with



marriage and inheritance we are left in doubt as to whether some of them are limited to priestesses only or apply to any married woman. §§ 183, 184 only mention the offspring of a concubine; but surely the daughters of the regular wife would be provided for in the same way! At first sight § 150 appears in conflict with § 172*b*. In the former the children have no claim on the gift made to the wife; in the latter she is obliged to surrender the gift to the children. It requires some study to perceive that the two sections are dealing with two different kinds of things. There is also the continually recurring difficulty of deciding whether the word "man" means a man in general or a special class of man—the Freeman.

These blemishes are excusable in a purely human composition; but Professor V. Scheil says of the monument (p. 12): "*Au sommet figure en bas-relief le dieu Samas dictant ces lois à Hammurabi*"; and many editors have blindly repeated that it is Shamash dictating his laws to the king, although it is an ordinary scene of a worshipper adoring his deity, such as occurs on scores of cylinder seals, on the well-known relief of Nabu-pal-iddin in the British Museum, and on another monument discovered at Susa (*Délég. en Perse*, VII, Pl. 1), where there is no question of dictating anything. Such statements are in direct conflict with the inscription, which consistently claims that the laws were originated by Hammurabi himself. The epilogue commences with the words *Dinât mi-sharim sha Hammurabi sharrum lium ukinnuma*—"The judgments of justice which Hammurabi, the mighty king, has established" [V. Col. XXIV, 1-5]. Later on it makes Hammurabi speak of the law of

the land which he has formulated and the statutes of the country that he has enacted [XXV, 64-83], and it is impossible to make him claim the authorship of the Code in stronger language. It is true that he refers several times to the god Shamash, "the great judge of heaven and earth," as the source and the supporter of law and justice; but that is quite another thing to claiming that the Code was dictated by the Sun-god.

In most mythologies the Sun is the god of Justice, because when he rises over the earth he discovers everything. Professor Clifton D. Gray, of Chicago University, has published an Assyrian hymn in praise of the Sun-god, in which, among other things, Shamash is hailed as the revealer and chastiser of perjury, adultery, bribery, and all other offences, and the one who unmasks the dishonest tradesmen who uses false weights and scales, and goes further than most legislators by rewarding the good as well as repressing the guilty.<sup>1</sup> But, though the Chaldeans appealed to Shamash as their judge, they did not credit him with the Code we have before us, for, as Professor Langdon reminds us, "The royal legislation of Hammurabi was known to the Assyrian scribes as the *dinani* (*sha*) *Hammurabi*—('The judgments of Hammurabi') " (*J.R.A.S.*, 1920, p. 490).

The Sumerian laws, however, were not ascribed to a monarch. The newly-discovered Sumerian law-code is entitled "The Decisions of Nisaba and Hani." Nisaba was the goddess of Writing, and Hani "the Lord of the Seal," from which we may infer that the Sumerians made the same distinction as the English

<sup>1</sup> *The Shamash Religious Texts* (Chicago, 1901).

lawyers between documents under hand and under seal.<sup>1</sup>

Hammurabi begins with a long prologue in which the legislator claims to have been appointed *dei gratia*, and he gives a list of his principal cities, arranged in the order of their sacerdotal importance. Thus Nippur, as the holiest of all, comes first; and then they grade off in sanctity until we get to Nineveh, which comes last.

In the list of places we have put the names of the cities in small capital letters for more easy reference. Each city is accompanied with the title of its chief temple, which we have put in italic type. The temple may also be recognized by the prefix *E*, an old Sumerian word meaning "house" (Semitic Babylonian *bit*, the Hebrew *beth*). Thus *E Kur* is "the house of the land," *E Absu* "the house of the abyss," etc.

In SIPPARA the chief temple was *E Babbar*, "the house of light," dedicated to Shamash. His consort Malkat (in Akkadian *Aa*) was the Persephone of the Babylonian pantheon, and it appears that her grave was shown in the temple covered with green turf, for she represented Nature in her winter sleep, from which she is revived by the summer sun. Consequently her symbol in the great temple of Sippara was the "verdant cenotaph," restored by the pious care of Hammurabi.

Nergal, the god of the dead, was the tutelary deity of KUTHA, which, accordingly, was the centre of an enormous cemetery. Therefore Hammurabi appro-

<sup>1</sup> *Yale Oriental Series: Babylonian Texts*, vol. i, p. 19 (New Haven; 1915).

priately styles himself "the *grave* of the foe" when he refers to this city and its temple.

HALLABU was the Semitic name of an important city of Southern Babylonia. It stood in the vicinity of Sippara. The British Museum has a tablet of Rim-Sin recording the erection of a temple to the goddess of this city, and also another tablet recording that Hammurabi rebuilt the same temple.<sup>1</sup> Evidently the edifice was commenced by the one and finished by the other.

It is interesting to note the name of NINEVEH at the end of the list, for this is the first known mention of the city that afterwards became so celebrated as the capital of the realm of Assyria, which took its name from ASSUR, the cradle of the Assyrian power.

Hammurabi's list of cities is enough to prove that his was not a world-empire. His kingdom extended from Nineveh to the Persian Gulf, and embraced a territory slightly larger than Italy. Most of the places named are well known in early Babylonian history, some of them being at one time the centres of independent States.

#### SEMITIC IDIOMS.

The translation of the Code has been made as literally as possible consistent with intelligibility; hence idiomatic expressions are left as in the original. These need not offer any difficulty, for some are familiar from the Old Testament and the others are easily comprehensible. The following are a few examples :—

<sup>1</sup> King, *Letters of Hammurabi*, iii, p. 185.

§ 137. "Set his face" = has a design to.

§ 169. "Turn aside his face" = change his intention.

§ 162. "Gone to her fate" = has died. *Shimtu* means "fate," or "destiny," or "lot"; and, as death is the common lot of humanity, the Babylonian idiom expressed it as going to one's destiny.

§ 194. "In the hand of" = in the possession of; etc.

### THE THREE ESTATES OF BABYLONIA.

The Code divides the inhabitants of Mesopotamia into three classes—the Freeman, the Plebeian, and the Slave (*Amelu*, *Mushkenu*, and *Wardu*).

The word *Amelu* means, primarily, a "man"; and occasionally it is difficult to know whether the Code is speaking of a man in general or a special kind of man. In the latter case, the offence committed against an *Amelu* entails a heavier punishment than if committed against either of the other classes; and, correspondingly, a crime by an *Amelu* carried the greater penalty. Thus the *Amelu* must have been a prominent and important personage. Some translators have designated him as a Patrician, or Gentleman; but either of those terms might convey an incorrect impression. The *Amelu* was neither more nor less than the full citizen of Babylonia. In ancient societies the full citizen was the only person recognized by the eye of the law. A stranger had no rights whatever, and had no kinsman to take his part in quarrels. He was obliged to place himself under the protection of a full citizen if he wished to remain in

the community in peace and security. In ancient Rome the Patrician was surrounded by a body of "clients" whom he protected, and who were expected to support him politically. In like manner, in ancient Babylon there was a body of *Ameli*, or Freemen, who were of cardinal importance in the social organization, and formed the ruling class. The Freeman lived in an *ekallu*, or "great house," which most of the translators of the Code render by "palace." This, again, conveys a wrong impression, as in §§ 15, 18, 109, for we cannot suppose that every one was in easy reach of the king's residence. The house of the *Amelu* might not be a large or an ornate edifice. It was an *ekallu* because it was the home of the full citizen. Just as we express the same idea by the proverb that "an Englishman's house is his castle," which was at one time a literal fact. In the city of London, for example, we find thoroughfares named Aldermanbury, Bucklersbury, and Lothbury. The "bury" stands for the Anglo-Saxon *burh*, a fortified house, and these place-names inform us that in the early Middle Ages there were in those localities the fortified house of an alderman, another stronghold belonging to the Bukerells (the earliest form of the name is Bukerelesbury),<sup>1</sup> and another belonging to a man named Hloth (cognate with Clothaire). The Anglo-Saxon Atheling kept his head by his own right arm and by the spears of his liegemen. Therefore he lived in a stockaded hall in the country and in a fortified house in town. Life was slightly more peaceful in ancient Babylon, so we need not imagine the *Amelu* to require a castle

<sup>1</sup> Arthur Bonner, F.S.A., "Some London Place-Names," *Transac. London and Middlesex Arch. Socy.*, 1916, p. 296.

for his residence. In this book we translate *ekallu* by "great house," merely warning the reader not to attach too much importance to the word, for houses in the East are neither imposing nor comfortable, judged by Western standards. The *Amelu* was a leader in the community, §§ 18, 32, 109, and exercised a general supervision over his clients. He enforced respect from the lower classes, but was expected to follow a higher standard himself, and if he offended his punishment was so much more severe. Apparently, the most appropriate term for him is "Free-man," which we write with a capital letter to discriminate from other cases where it is only a question of the distinction between the free man and the slave.

The *Mushkenu* is less easy to define. All through the Code we have definite regulations regarding Mushkenu (the Hebrew *mishken*, adopted into the Italian as *meschino*, and thence into the French *mesquin*, "mean" or "shabby"). The Mushkenu, however, was by no means a pauper. He possessed silver, § 140; and he owned slaves, §§ 15, 175, 219; and his slaves were sometimes sufficiently well-off to marry free women, §§ 175, 176. A mere artisan, or man who lives by his labour, is not a Mushkenu; he is styled a *mar ummia*, or "son of the people," §§ 188, 274; and the "son of the people" was evidently a free man, like the other persons who served for wages and are mentioned in §§ 239, 257, 258, 261, and 271. A slave could be emancipated; but there is nothing in the Code to show how a Mushkenu could change his condition. His status depended upon birth, for §§ 208, 216, 222 deal with the *son* of a Mushkenu, and

§ 211 with a *daughter* of the same. The Mushkenu's life and limb were valued at less than those of a Freeman, and more than those of a slave, §§ 198, 201, 204. Consequently he stood midway between the class of full Freeman and the class of full slave, and the term "plebeian" would seem best to express his condition. When § 15 wishes to express the idea of "the slave of a man of high degree or the slave of a man of low degree" it uses the terms "slave of the great house or slave of a plebeian"; therefore, the plebeian was the humblest individual who could be thought of as possessing slaves.

Slavery in Babylonia was quite different to the modern conception of the institution. In ancient society, and, generally speaking, in the East at the present day, the slave was a member of the family, and might become a person of wealth and consequence. Some of the ruling dynasties in the East had a servile origin, or might even be recruited from that class, as the Mamelukes of Egypt. When an ancient Roman required an act of self-denying devotion he did not turn to his friends or his relatives, he turned to his freedman, and he was never disappointed. Slavery was not a desirable condition. By the Babylonian Code, if a slave were injured his owner took the compensation, but he had to pay for the slave's medical treatment. The slave might marry a free woman, in which case his children were free, and on his death the wife inherited half his property. If a free man had children by his female slave, she could not be sold, and at his death she and her children were emancipated. Slaves were most often foreigners; but Babylonians might be reduced to the



same condition, either because they had committed some crime or because they had fallen into debt, §§ 54, 127. The slave was known by having his hair shaved in a peculiar way, or by being tattooed in the forehead, these marks being the work of the barber or brander, §§ 226, 227. Curiously enough, the Code makes no provision for the emancipation of slaves (except the slave girl and her children). In the contracts we have cases of manumission. Either the slave purchases his own freedom, or, more frequently, he is released by the generosity of his owner. "His brow is purified," and he becomes a free man (see p. 108). The status of slavery must be distinguished from that of a person distrained for debt (see "Debt and Distraint").

#### THE ORDEAL AND THE OATH.

The Babylonians had their courts of law, in which evidence was heard and judges gave their decisions, §§ 5, 9-13, 168, 177. But there were cases where credible testimony seemed impossible, and therefore recourse was had to the ordeal by water. The suspected person was laid carefully upon the surface of the "Holy River." If he floated, he was innocent. If he sank and was drowned, he was guilty. The River-deity had decided the case supernaturally, §§ 2, 132.

A less drastic method of discovering the good faith of a witness was by making him swear an oath. Oaths were the regular feature of Babylonian procedure, and almost every contract-tablet is attested in this way. The matter has been discussed by Dr.

Samuel A. Mercer, of Chicago, in his treatise, *The Oath in Babylonian and Assyrian Literature* (Paris, 1912), p. 31 :—

The Babylonian and Assyrian oath was a solemn promise or declaration made under divine sanction or penalty, and ratified by spoken word, action, or word and action. It was considered, as by modern people, a sufficient indication that the person in question was sincere in his promise or statement. The deity was invoked to strengthen that promise or statement, and to attest its truth, giving assurance of honest and serious intention.

The Code usually expresses it "affirm before God," § 9; but at various times witnesses swore by the King or by the City—the monarch and the city being regarded as quasi-divine. The tablets do not usually threaten any penalty for perjury, because the sanctity of the oath was evidently universally recognized; but in at least two instances the formula is, "He that forswears himself, and thereby breaks his oath, shall have boiling asphalt poured upon his skull" (Mercer, p. 32).

#### SORCERY.

The Babylonians distinguished two kinds of witchcraft—viz., *nertu* and *kispu* which we have here translated by "curse" and "spell." A man who considered himself bewitched would resort to the village *Asu*. The *Asu* (translated in this Code by "doctor") combined in himself the offices of exorcist, medicine man, physician, and surgeon. His method of procedure was usually to pronounce a counter-spell upon the suspected wizard. Such a suspicion,

however, might be without foundation, and a perfectly innocent man might find himself in the unpleasant predicament of being denounced before his neighbours as a wizard, and himself the subject of the village magician's exorcism, carrying with it unknown perils to the superstitious mind. The Code, therefore, gives the suspected party the right of challenging the exorcism; and we know from African examples that a native will face any ordeal to clear himself from the suspicion of witchcraft. The Code does not inform us how *nertu* was to be justified—perhaps that could be made the subject of judicial inquiry; but the sufferer from *kispu* could claim the ordeal by water, and the "River-God" <sup>1</sup> decided the case. Not only did the Babylonians consider sorcery an actual thing, capable of being dealt with legally, but the Romans, who are usually considered a practical, hard-headed people, were fully convinced of the reality of magic, and the XII Tables (viii, 8) forbid a man to remove his neighbour's crops from one field to another by incantation, or to conjure away his corn.

#### THEFT.

The punishments in the Code are all summary. There is nothing said about imprisonment. In fact, we cannot say if there were any convict prisons in Babylonia. With the exception of § 202, the penalties resolve themselves into fine, mutilation, and death. At the beginning of the nineteenth century theft was a capital offence in most European countries, and the

<sup>1</sup> In the inscription the word for "river" has the sign for divinity prefixed to it.

same thing obtained in Mesopotamia. The Code makes a distinction between animate and inanimate objects. The dog-stealer, when confronted with his crime, invariably excuses himself with the assertion : " The dawg follered me." Hence there might be some doubt as to whether the quadruped or the boat followed the thief of their own free will. He was given the option of compounding for them. There could be no such excuse in the case of portable goods ; they must obviously have been carried away, so the capital penalty was inflicted.

§§ 6, 8 confine themselves to the property of a temple or a great house ; but it is reasonable to infer that the property of a plebeian or a slave, § 176, would be equally protected by law. The sections on stolen goods say nothing about temple or great house ; and the same reasoning applies to the other provisions of the Code where property is obtained by force or fraud.

Ancient Babylonia was badly policed, and brigandage was common, §§ 22-4, 103. The hymn to Shamash, already referred to, says : " The robber, the thief, is thine enemy, O Shamash ! He who is overpowered on the road and by the field prays to thee." Prayer is a poor protection, and we see by these sections that the district was held liable, and had to recompense the victim.

§§ 24 and 153 are the only places in the Code where murder is mentioned.

#### MILITARY SERVICE.

The Babylonian monarchs possessed vast landed estates. Parts of these were allotted to individuals on a kind of feudal system, the fief being bound to

come up when summoned and serve as soldier or slave-driver or policeman or in any other capacity, for we must remember that military and civil employments were not distinguished. §§ 26-41 deal with this subject, and § 35 shows that sheep and cattle were sometimes included in the fief. Two peculiar phrases are employed: "Way of the King" and "Misfortune of the King." As regards the first, Dr. Winckler recalled that in Arabic "the Way of Allah" means a campaign. In Islam, Allah has taken the place of the King as director of the war. Many translators render it "the king's business," which is more comprehensive. As to the second phrase, *dannat sharrim*, there is less agreement. Professor Scheil rendered it "fortress of the King," and he has been frequently followed. Dr. Winckler proposed "misfortune of the King," and Professor Ungnad "overthrow of the King," both of them taking the phrase to denote a defeat of the army. Dr. Winckler's rendering seems to give the better sense.

The sections name three classes of feoffee:—

<i>red sabe</i> ,	literally,	marcher of troops
<i>bairu</i> ,	„	catcher
<i>nashi bilti</i> ,	„	bearer of tribute

It is not clear what these terms mean, and various renderings have been adopted. Professor Ungnad suggests (*Hammurabis Gesetze*, II) that the *redu* was a heavy-armed soldier, and the *bairu* a light-armed soldier, and he has been followed in the present work. On the Vulture Stele (now in the Louvre) there is a representation of the heavy-armed troops of Eannadu, king of Lagash (about 3100 B.C.). They wear helmets

of copper, and each man carries a large square, oblong shield studded with plates of metal. Their offensive weapons are spears, and they march in a close phalanx, with their shields overlapping each other. Professor Scheil rendered *nashi bilti* as "tax-gatherer," but it seems more likely that he was a man liable to pay taxes, and so, in fact, a feoffee, or feudatory.

The feudal soldier was under strict discipline. If he refused service, he was executed. If the soldier did not choose to work his fief, any one else could do so; and if they held it three years in succession, it was alienated as far as the soldier was concerned; and if the superintending official did not pursue him, he was no longer liable for service.<sup>1</sup> A soldier taken prisoner had to find his own ransom, § 32. The fief could pass only to the son, not to the wife or daughter, because they could not serve in the army. In addition to his fief, the soldier could purchase property out of his own resources; and he could deal with such property as he chose, and pass it to his wife or daughter, or sell it to a priestess or a trader (priestesses and traders being the people who did most of the business in Babylonia). It was illegal to assign, sell, or pledge the fief, and any consideration paid for it was forfeited.

The exact status of the officials mentioned in §§ 33, 34 is not known. Translations vary from sergeant to general.

§ 41 is not clear. The interpretation of Professor Scheil has been followed.

<sup>1</sup> See the article by Dr. Samuel Daiches, of the London Jews' College, in *Z. für Assyriol.*, Band 18 (Strasburg, 1904-5), p. 202.

## AGRICULTURE.

The Code deals with two main classes of agricultural property—the field and the orchard. The Babylonians cultivated grain and various kinds of vegetables, and they possessed many varieties of trees, but their main reliance was corn and the date-palm. Hence the field must be understood as being chiefly devoted to wheat, barley, and sesame, and the orchard to the date-palm.

The olive tree did not grow in Mesopotamia, and therefore they had no oil except what was extracted from sesame. Wheat and barley were eaten as porridge, or were rubbed into flour between two stones, and the flour made into dough and baked into loaves. The barley was also brewed into beer. The dates were eaten, and the fermented juice made into a refreshing drink, which we may call “toddy,” as it was pretty nearly the same thing as what is now known by that name in India.

A great deal of the land was in the hands of widows or other people who could not cultivate it themselves. Consequently, it was customarily let to farmers, on the stipulation that the landowner should receive one-half, or one-third, of the crop, § 46. The farmer provided the seed and did the ploughing and reaping, either by himself and his family and slaves or with the help of hired labour. Sometimes, instead of a percentage of the crop, the farmer covenanted for a fixed rental, as in the following :—

From Ina-libbi-ershet (priestess of Shamash and daughter of Warad-ilishu) Idin-zamama has rented seven gan of land for tillage upon a yearly

rental. At the harvest he will measure out at the gate of the temple two-thirds of a gur of corn for every gan. In addition, he will deliver at each of the three great festivals 20 qa of toddy, 5 qa of bread, and one joint of meat. (Names of witnesses and date.)

In the case of uncultivated land the farmer took it on a lease of three years. The first year he paid nothing, as he had to prepare the soil. The second year he paid a small rental, and in the third and following years he paid his due proportion of the crop, thus :—

From Shillashuna, the proprietor, Marduk-nasir has leased three gan, part of the Estate of the Adad-gate, bounded by the land of Adad-bani. Marduk-nasir will clear and prepare the land in the first year. In the second year he will measure out two-thirds of a gur of corn. In the third year he will measure out corn the same as the tenants of the adjacent fields. (Witnesses and date.)

§§ 42-52 regulate the farming of arable land. Having made the contract, the farmer was compelled to carry it out; and if he had taken uncultivated land on a three years' lease and had done nothing to it, then in the fourth year he must prepare it and pay a certain quantity of corn as a fine. In case of drought or storm the farmer dipped his tablet in water as a symbolical act and paid no rent for that year.

§ 45. The Babylonians looked upon most of the operations of nature as due to the direct interference of the gods; thus §§ 45, 48 speak of the god Adad as flooding the fields. Adad was the deity of storms and thunder; hence in this place his name is to be read as



the equivalent of "thunderstorm." There is a similar expression, "stroke of God," in § 266.

When the farmer rented his field he might not have the requisite seed-corn for sowing. He would therefore go to a trader and borrow money for the purpose of buying seed-corn. But he was not allowed to pledge the crop to the moneylender, lest the latter should swallow up the rental. The landowner stepped in and reaped the crop, first of all taking his share; then he repaid the loan to the trader, and handed the balance to the farmer. If the landlord (as was usually the case) did not possess enough silver to pay the debt and interest, he gave an equivalent in corn or sesame, according to the rate fixed by royal proclamation; for the kings took on themselves to fix the prices of the various commodities. On the other hand, if the farmer had borrowed the money, but had not grown any corn, he was still liable for the debt.

The principal requirement for securing a good harvest was irrigation, §§ 53-6; and this was just as necessary for the date-palm as for corn. The kings often took great praise for their care for their people by digging canals; but these were by no means philanthropic undertakings, for the farmers were expected to pay a certain proportion of their crop in return for the water so supplied them. Similar irrigation works were carried out by rich landowners and bankers as a speculation. A late contract tablet reads as follows :—

Amurru-etir and Amurru-natan have spoken to Ellil-nadin-shum, the son of Murashu, saying :  
" Give us water out of the Bel Canal belonging to

thee, so that we may irrigate our land. For that thou shalt enjoy with us one quarter of the dates that grow thereon." Then heard Ellil-nadinshum, and gave them water out of his Bel Canal for their orchard. Annually in the month of Tishri he enjoyed with them one-quarter of the dates.

But the farmer's liability did not end here. He had to be very careful in opening and closing his ditch and in maintaining the banks of the irrigating stream. Otherwise his fellow-farmers could recover damages from him, §§ 53-6.

As mentioned by Theophrastus (p. 6), the usual rotation of agriculture was to take two crops of corn and then turn flocks of sheep on to the land to manure it. §§ 57, 58 are intended to protect the farmer against having his young corn eaten down by sheep through the fraud or negligence of the shepherd.

§§ 59-66 regulate orchards on much the same lines as arable fields. The date-palm being a valuable tree, it was a great crime to cut one down. The date does not begin to bear before the fifth year. It is propagated from slips taken from the foot of an adult tree, kept well watered. The care of a planted orchard did not demand so much manual labour as a cornfield, after the trees were grown; so the owner of the orchard took two-thirds of the crop from the farmer, leaving him one-third as his recompense. If the farmer borrowed money, the owner could claim the whole of the crop, leaving the farmer nothing, but paying off the money-lender, § 66.

## HOUSE PROPERTY.

§ 71 is all that has been recovered of a group of laws relating to house property. It deals with what must have been a frequent cause of dispute—namely, where one man's house could be built on to or lean against another man's wall. The law enacts that a building attached to another house shall belong to that house, and may not be sold separately from it.

## THE ERASURE UPON THE PILLAR.

After § 65 a large portion of the writing on the base of the front of the pillar has been polished away. Professor V. Scheil has shown that there is no doubt that this was done by order of the Elamite king, Shutruk-Nahunte, who has placed his name and title upon other Babylonian monuments discovered at Susa. In this case, however, the Elamite monarch was evidently appalled by the terrible curses denounced in the Epilogue [V. Col. XXV, 59, etc.] against any ruler who should damage Hammurabi's inscription, and therefore the work was never completed. This erasure has deprived us of five columns of writing, and it is estimated that some thirty-five sections of the laws have thus been lost. Some of these have now been recovered. The Code of Hammurabi having been the authoritative law-book of Babylonia during the whole of its later history, it was necessary for the lawyers and students to have portable copies, and several tablets of this nature have been found to contain portions of the law. Professor Scheil in 1902 restored two of the sections from a couple of copies in the British Museum, an improved translation of which has

been published by Dr. A. Ungnad in *Hammurabis Gesetze* (1909), Bd. III, p. 268. He has identified them as § 66 and § 71 of the Code; and this numeration has been adopted by the present writer, basing his rendering upon that of Ungnad. A larger portion of the text was recovered by Dr. Arno Poebel in 1913 upon a tablet from the temple library of Nippur, now preserved in the Philadelphia Museum. Dr. Poebel has published his discovery, and it has been discussed by Professor Scheil and M. Ed. Cuq, "Les nouveaux fragments du Code de Hammourabi," *Mémoires de l'Académie des Inscriptions*, tome xli (Paris; 1918), pp. 159-270. The latter has identified the new sections as § 90 to § 100. This numeration has been adopted, and the translation based upon that of Cuq. In 1914 Professor Stephen Langdon published "A Fragment of the Hammurapi Code" in the *Proceedings of the Society of Biblical Archaeology*, vol. xxxvi, p. 100. The text is contained on a badly damaged tablet of the late Babylonian period, preserved in the British Museum. There are eight or nine sections, but unfortunately they are too mutilated to be intelligible. They are not quite in the same style as the laws on the pillar from Susa, and it is difficult to guess what part of the gap they could fill. Nevertheless, these discoveries encourage us in the hope that before very long the whole of the missing sections may be restored from other copies, and that we shall then be in possession of the complete law-book of the ancient Babylonians.

#### MONEY-LENDING.

A loan may be defined as a form of contract whereby one party delivers to the other a certain quantity of

goods which are consumed in use, on the understanding that the borrower shall return to the lender within a specified time either an equal quantity of goods of the same kind and quality or else an equivalent in goods of another kind.

Owing to the universal employment of coined money in modern life, the latter condition seldom presents itself; but it was an important feature in Babylonian commerce, where one might make a loan in silver to be repaid in wheat or barley or onions or bricks, or might lend wool or oil and expect to be paid back in silver. Such transactions would not be regarded as "loans" nowadays. We should give them a different name. But these conditions should be borne in mind, as the business of the Chaldean money-lender would often, from our point of view, be that of a merchant rather than a banker.

As a general rule, a lender expects not merely to be repaid the sum he has lent, but to get something in addition, which we call "interest," and the Babylonian lender regarded it as a matter of course that he should receive this additional consideration. Money-lending at interest is a standing feature of the contract-tablets from the earliest times; and it is quite evident that the Babylonians never felt that horror of "lending at usury" which is so remarkable in Greco-Roman and Medieval economic thought. Curiously enough, the introduction of the use of coined money intensified, if it did not originate, this feeling. The Greek language also contributed to the same idea. Even such a great thinker as Aristotle, in his *Politics*, argues that τόκος, "interest," is an anomaly, for τόκος means to have offspring; and as it is contrary to nature that

a piece of money should produce another piece of money, therefore the popular defence of interest was wrong. This notion was eagerly taken up by the ecclesiastics. St. Basil argued that to receive interest for money lent was to reap where one had not sown. Other theologians added arguments from *Deut.* xxiii, 19, 20; *Lev.* xxv, 35-7; and *Exod.* xxii, 55; as well as *Luke* vi, 35.<sup>1</sup> Convictions of this kind resulted in legislation, both in Roman and Medieval times, and laws were passed forbidding lending at interest (merely recognizing the repayment of the capital sum) or else, limiting the rate of interest by prescribing penalties against "usury." It was not until the sixteenth century that economists began to uphold the obvious fact that interest served to indemnify the risk of total, or partial, loss of the capital or delays in the final repayment, besides being a recompense to the lender for the service he had rendered the borrower. But such was the force of religious prejudice and the authority of the Canon Law that it was a long time before these principles were accepted.

The Babylonians were never troubled with such discussions, and the Hammurabi Code treats money-lending as a perfectly legitimate transaction, only needing to be regulated for the purpose of preventing the one side from injuring the other. The Babylonian conception of the subject may be gauged from the term used to denote interest—viz., *sibtu*; i.e., "growth." The Babylonians having no coined money (and very little uncoined silver) for currency, their loans were largely made in wheat, barley, or sesame—things that were naturally capable of growth.

<sup>1</sup> See Vulgate, and English Authorized Version.

If a man borrowed a bushel of corn, and sowed it, it yielded so much more corn. If the lender merely received back his bushel, he had actually made a present of the increase to the borrower. Consequently it was only fair to both parties that the lender should receive some portion of the "growth" or increase which had arisen from his loan of the corn. The Babylonians did not distinguish between interest and profit as we do; they had the same word, *sibtu*, for both. In their view the lender and the borrower had entered into a partnership, and consequently each was entitled to some part of the "growth"; or, as we should express it, the lender was entitled to his interest and the borrower to his profit. The notion that the use of metallic silver made any difference was foreign to the Babylonian mind, for it was quite evident that if a man borrowed silver he could buy corn with it, and the corn would grow in the ordinary course of nature. The rate of interest (thirty per cent. for corn and twenty per cent. for silver) seems to us to be excessive; but it reflects the financial conditions in Babylonia, and the fertility of the soil enabled the cultivator to bear such a charge with ease, for we have seen on p. 6 that his crop yielded him at the least fifty to one, and often much more.

It was the operations of agriculture which chiefly necessitated these loans. The cultivator found himself without sufficient corn for sowing. He therefore applied to some one who had corn, or could lend him silver to buy corn, which he could repay at the harvest. Cuq, *Le prêt à intérêt* (Paris; 1918), pp. 36-8, quotes several contract-tablets of this nature, the usual formula being :—

First year of Samsu-iluna, 9th month. Loan of twelve shekels of silver for the purchase of corn. One month after the harvest the borrower will repay the silver with interest.

The above is quite intelligible to the modern mind; but the tablets record many other varieties of transaction which, at first sight, would not be defined by us as loans bearing interest. If the Chaldean borrowed silver on the understanding that in a few months' time he would deliver dates to the value of the silver, together with an additional payment by way of interest, we should treat it as an ordinary arrangement for the purchase of dates for future delivery, and would not dream of complicating it by considerations of principal and interest. But that was not the way the Babylonians expressed it.

Another piece of business recorded by Cuq would be still more foreign to our notions of a loan at interest :—

In the 35th year of Ammi-ditana, 10th month, 2nd day. A loan by a judge to three brothers of nine *gur* of sesame on condition that they extracted one-third of the oil, to be delivered in one month. The borrowers to deal with the sesame in the interval and make their profit by expressing the rest of the oil and disposing of the residue.

Our view of the matter would be that the judge sold the sesame to the brothers for a specified quantity of oil to be delivered at a later date. These instances, however, will suffice to show that the business of "money-lending" in Babylonia covered a great many more classes of transaction than we should place under



that head, and will tend to explain why the money-lender played such an important part in ancient Babylonian life.

It must not be inferred that Babylonians invariably took interest. There are many records of gratuitous loans where the capital alone was repaid; and Cuq (pp. 25-8) refers to an interesting class of loans made by the officials of the Temple of the Sun-God, these advances being made to sick people on the sole condition that if the borrower recovered he would repay. If he died there was no further claim :—

Sixth year of Ammi-zaduga, 5th month. Two *gur* of corn and two-thirds of a shekel of silver, lent by the God Shamash, to be repaid to the treasury of Shamash in the event of the borrower recovering from his present illness.

#### PEDLARS.

From the Code and from the contract-tablets we learn that it was customary for the trader to establish himself at some centre where he could look after his warehouses. The retail trade was conducted by agents, who were sent in various directions, carrying goods which they sold as opportunity offered. The term for the principal in these transactions is *tamkar*, which we render by "trader." The agent is *shamallu*, which we render by "retailer." The "trader" combined the business of wholesale dealer, general merchant, and money-lender. The "retailer" might be a pedlar, or slave merchant, and carry his goods with him; or he might be entrusted with silver to make purchases for the trader's warehouse; or he

might borrow money, and buy and sell on his own account, sharing the profit with his principal. Thus there is really no term in our language which adequately expresses his position and his activity. Conditions were much the same in the time of Hammurabi as they are to-day in Oriental countries. At the present time it is usual for merchants to collect together in a caravan for mutual protection. They proceed along tracks which have been followed for ages and are universally known. At intervals of a day's march there is usually a building, called a caravanserai, a walled enclosure where the merchants can repose for the night in security, and be able to beat off the attacks of nocturnal robbers. We associate caravans with camels, but the camel was a rare beast in ancient Mesopotamia, and the horse still more rare. The loads were carried by men or by strings of donkeys. Such caravans travelled immense distances, going far into Asia Minor and Egypt and the shores of the Caspian Sea; but the Code seems chiefly to contemplate agents and retailers and pedlars who wandered about Assyria and Babylonia, buying and selling. We must remember that even in England, before the introduction of main roads, canals, mail-coaches, and railways, the greater part of the internal trade of the country was done by pedlars and pack-trains which travelled everywhere and supplied the wants of the community. In Hammurabi's time the work was dangerous; brigandage was rife, §§ 22-4; and the intermittent warfare between the petty states frequently rendered the roads unsafe, § 103.

## WINE-SHOPS.

It is an anachronism to speak of a wine-shop, seeing that wine was not drunk in Babylonia. Herodotus notes that neither the olive nor the vine grows in that region. The Code was first published in French, and Professor Scheil very naturally spoke of a *marchande de vin*, and all other translators have followed him. The principal beverages in Babylonia were beer, brewed from barley, and toddy, prepared from fermented date-juice. Xenophon, like a true soldier, made special note of the drinks he met with on his march. In Armenia he found barley beer in large bowls, with the grains of barley floating on the top, so that the liquid had to be sucked up through reeds. "The liquor was very strong unless one mixed water with it, and a very pleasant drink to those accustomed to it." With regard to the toddy, he says "the drink was very agreeable, but it brought on violent headaches."

As a general rule, the brewing of beer and the fermentation of the toddy were the work of women, who made and sold the stuff in their own houses. Large proprietors had a brewhouse attached to their premises, and professional brewers came round at intervals and prepared a quantity for the cellar, flavouring with cassia, sesame, and other approved additions.

The following contract-tablet is dated in the thirty-fifth year of the Persian king Artaxerxes (430 B.C.) :—

Ahi-iddin has spoken thus to Ribat: "Give me for brewing 100 gur of dates, 100 barrels, 6 tubs, 2 vats, 2 hired slaves, and cassia; and I will

carry out the work. In Sivan and Tammuz I will deliver to thee 100 barrels full of good toddy." Ribat heard him, and gave him the dates to the amount of 100 gur, and the utensils he demanded. In Sivan and Tammuz of the thirty-sixth year he will deliver 100 barrels of good toddy.

The drinking-places attracted undesirable characters, § 190, and the proprietors were not of good repute. The Code regulates the price at which the beer was to be sold, §§ 108, 111, and prohibits the seller from making any extra profit by taking silver and refusing corn at the current tariff of the day.

#### DEBT AND DISTRAINT.

In modern law the creditor can distrain only on the goods of a debtor. In ancient times the debtor's person could be seized, and he himself sold into slavery, § 54 (apparently into absolute slavery). In order to preserve his own freedom, the debtor might give his wife or children or slaves, who would labour for the creditor, and so work off the debt. But the wife or children were not absolute slaves; they were not bound to serve more than three years; in the fourth year they were free whether the debt had been worked off or not, § 117. A slave might also be assigned for debt in the same manner; and if the creditor chose to sell the slave, and so recover the debt summarily, he could not be prevented, § 118. If it happened to be a woman who had borne children to her master, he was obliged to buy her back again, and she was then free, § 119. If the wife or child or slave died in the hands of the creditor through overwork or ill-treatment, then

the debtor could proceed against the creditor. The Code speaks only of a son, but probably it means that the *lex talionis* would apply; and if a relative of the debtor had been worked to death, the corresponding relative of the creditor would suffer. If it were the debtor's slave, the creditor had to pay twenty shekels (twice the ordinary price of a slave). In addition to these penalties, the debt was extinguished. If it were proved to be a case of natural death, there was no penalty, § 115. A woman might stipulate before marriage that she should not be seized for debt, and bind her husband, § 151.

In most countries the tools of a workman are exempt from seizure, because they are his means of livelihood. In Babylonia the ox was the farmer's means of livelihood, and therefore the creditor was debarred from distraining an ox under a penalty of twenty shekels of silver, § 241.

Naturally, this power of distraint was liable to abuses, and §§ 113, 114, protect the householder from any unjust claim, and inflict penalties for illegal distraint.

### BABYLONIAN MARRIAGE.

The Code employs three technical terms in connection with marriage—viz., *tirhatu* = "Bride-price"; *sherigtu* = "Dowry"; and *nudunnu* = "Marriage settlement."

In theory, Semitic marriage is marriage by purchase. The girl is regarded as the property of her father, and he sells her to the husband for an agreed price. Among some primitive peoples this is not mere theory, but the actual recognized procedure; and the husband, having

purchased the wife, is free to sell her again, or to give her in pledge, or to bequeath her to his heirs. Among the Kabyles of northern Africa, for example, marriage is a strictly business transaction; and the wife passes like any other chattel. The father is not described as having given his daughter in marriage. The expression is: "He has eaten the girl," meaning that he has parted with her for some article of personal consumption; as in *Gen.* xxxi, 15, where Leah and Rachel say Laban "hath sold us, and hath also quite devoured our money." The husband announces his marriage in the words: "I bought a wife yesterday." Further, in the expressive language of the Kabyles: "The wife *hangs* to the husband"; and in the event of his death she is inherited like any other piece of property.<sup>1</sup> That is marriage by purchase in its extreme form. In higher phases of society, although the theory is there, the practice is much milder, and is little more than a form. The Romans had a type of marriage called *coemptio*, in which the woman was sold with due ceremony; but that sale did not give the husband any proprietary rights in her: it was merely a method of releasing her from the authority of her father, as the head of her family, in order that she might pass into the family of her husband.<sup>2</sup>

The modern law of Islam is animated by the same theory of purchase, but it is not worked out with such

<sup>1</sup> *La Kabylie et les coutumes Kabyles*, par Hanoteau et Latourneux (Paris; 1873), tome ii, pp. 148, 156. *The Laws of Moses*, by Stanley A. Cook (London; 1903), p. 73. *Kinship and Marriage in Early Arabia*, by W. R. Smith and S. A. Cook, 2nd ed. (London; 1903).

<sup>2</sup> "Le Mariage à Babylone," par Ed. Cuq, *Revue Biblique*, tome ii (Paris; 1905), p. 358.

logical completeness as among the Kabyles. In ancient Babylonia there was likewise the idea of purchase, though the wife is no longer the mere chattel. In this connection it may be noted that throughout the Code the woman is regarded as a passive instrument. Her father or her brothers "give her to a husband"; and even when she is really her own mistress, and exercises a choice for herself, the phrase is: "The man of her heart *shall take her* in marriage." As a general rule, no resistance is contemplated on the part of the woman. When the wife presents a slave-girl to her husband, the girl is assumed to make no objection, §§ 144, 146. In case of rape "the woman is guiltless," § 130. In other sexual offences it is the man who is punished, §§ 154-6, 158. Only in the case of a married woman is she held responsible, §§ 129, 133; and in one case of incest, § 157.

In Babylonia marriage was a solemn business transaction; and, like other matters of business, it had to be put in writing, § 128. "If a man take a wife, and a contract has not concluded, then that woman is no wife." It was the duty of parents to marry off their children, § 166. The suitor or his family paid an agreed sum to the woman's father as bride-price, this amount being often handed over in instalments, §§ 159-61. As an example, we may quote the following marriage contract, dated in the reign of Immerum:—

Warad-Sin (the son of Libni-Sin) has taken in marriage Ishtar-ummi (daughter of Buzazum). He has weighed out to Buzazum as her bride-price two-thirds of a mina of silver, and given one slave. For all time Buzazum and his sons shall

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have no further claim upon Ishtar-ummi. If Warad-Sin forsake Ishtar-ummi, he will weigh out to her one mina of silver. If Ishtar-ummi forsake Warad-Sin, she shall be thrown from a high tower, and dashed to pieces. Sworn by all the parties in the names of Shamash and Aia, the City of Sippara, and king Immerum. (Names of eleven male witnesses and five female witnesses.)

The average price of a slave was ten shekels. Warad-Sin gives such a slave in addition to forty shekels of silver. Thus he pays fifty shekels in all to the bride's father, who solemnly declares he has no further claim on Ishtar-ummi, the bride. In other words, this is a marriage by purchase. The transaction entails certain legal consequences. The woman becomes the wife of the purchaser, even though she does not immediately co-habit with him, § 130. If the father receives part of the bride-price and eventually refuses to hand over the girl, he is obliged to return double the amount received, §§ 160, 161. If the woman dies without children (children being one of the conditions of marriage, according to Semitic idea), the husband deducts the bride-price he has paid from any property she has before handing back her property to her father, § 164. Thus it will be seen that the purchase-money is the usual prelude to marriage; but the rule is not absolute, for §§ 139, 140 contemplate cases where no bride-price has been paid. (§§ 139, 140 may refer to a woman who has contracted a second marriage, and so did not require a bride-price to be paid to her father.)

Nevertheless, this purchase does not give the husband any proprietary rights in the wife. He may



give her to work for debt, §§ 117, 151, 152; but that servitude is limited to three years. In case of aggravated disobedience he may treat her as a slave, but only in his own house; that is to say, he cannot sell her to any one else, § 141. In no case does the Code regard the woman as a mere chattel. On the contrary, it is full of clauses defining her rights and interests. Thus, although the suitor has paid the bride-price, he cannot be regarded as having actually purchased the woman, for his rights over her are limited.

There is, however, a second marriage custom, or condition of marriage—namely, the payment of a dowry by the bride's father. This practice is quite incompatible with marriage by purchase, because, instead of the suitor making a payment to the father to obtain his daughter, the father now appears to give something to the husband to induce him to take the girl! It is true that, when we study the Sections more carefully, the dowry is not really given to the husband. Although he may have the management of it, it is always ultimately the property of the wife. It is a present given to her to cover the expenses of marriage. If she dies without children, her father takes back the amount of the dowry, § 163. If she has children and then dies, her children inherit her dowry, § 167. If the wife be neglected and ill-treated, she takes her dowry, and goes back to her father, § 142. If she be divorced through no fault of her own, her husband is obliged to give her back her dowry and make no deduction for the bride-price, §§ 137, 138. If the wife fall ill and wishes to return to her own family, she takes her dowry with her,

§ 149. If the husband dies, the wife resumes her dowry, §§ 171*b*, 172*b*. Hence it is quite clear that the husband is only in temporary custody of the wife's fortune.

It is such a recognised custom for the father to give his daughter a dowry that if he dies before she is married the executors reserve part of the estate for her dowry, § 184. From that point of view, therefore, the dowry represents the portion of the paternal estate to which the daughter is entitled. When she leaves her father's house in marriage she takes this participation with her instead of waiting for the death of her parent. That is the reason why, if she dies without issue, her share of the family estate reverts to the family.

The following is a short contract-tablet where the bride carries a dowry :—

Enlil-idzu (priest of Enlil and son of Lugal-azida) has taken in marriage Ama-sukkal (daughter of Ninib-mansi). Nineteen shekels of silver has Ama-sukkal brought to Enlil-idzu as her dowry. If Enlil-idzu says to Ama-sukkal "Thou art not my wife," he shall return the nineteen shekels of silver, and in addition pay half a mina of silver for her divorce. If Ama-sukkal says to Enlil-idzu "Thou art not my husband," she shall forfeit the nineteen shekels of silver and in addition pay half a mina of silver. In mutual agreement they have sworn by the name of the King.

How, then, can we reconcile these two apparently discordant customs, where on the one hand the suitor pays a price to the father, and on the other the

father makes a gift of property at the time he hands the bride over to the husband? We can only conclude that the marriage by purchase, once universal, had decayed. The father felt repugnance at the idea of selling his child for money, and therefore the bride-price degenerated into a symbol. It was now accepted as a pledge, or earnest-money, that the suitor really wished to enter into matrimony, besides being a tangible proof that he was in a position to support a wife. In most cases the bride-price resolved itself into a gift made by the suitor to the bride, but passing through the father; unless the father were poor, or covetous, and so pocketed it himself. In late Babylonian times the bride-price went completely out of fashion, and we meet with nothing in the marriage contracts except the dowry.

Herodotus (i, 196-9) has some remarks upon female life in Babylonia. He came himself from a land where a girl had no chance of contracting a respectable marriage unless she possessed a dowry, and where it was considered a meritorious form of charity to provide portions for dowerless maidens. Therefore one Babylonian custom struck him as being particularly worthy of praise, though he adds regretfully: "*Such was their best institution; it has not, however, continued to exist.*" As he relates it, the institution was that once a year all the marriageable girls were brought together. The handsome ones were sold to prospective husbands, and the money so collected was given to the ugly ones as a dowry, so that they too might be wedded. "Neither might a purchaser carry off a girl without security; but he was obliged first to give security that he would certainly marry

her, and then he might take her away. If they did not agree, a law was enacted that the money should be repaid." All this reads like a garbled and blundering account of the Babylonian marriage customs of Bride-price and Dowry. The Greek traveller was quite mistaken in thinking that the price paid by the suitor went to form a fund for providing dowries for less attractive maidens. The Code plainly shows, §§ 163, 164, that the bride-price usually came into possession of the same girl, as part of her own dowry. As we have already seen, Herodotus was quite correct in saying that, according to law, if the parties did not agree the bride-price was returned. He was also rightly informed that in his time the custom of paying a price for the bride had fallen out of favour. His most serious mistake is in supposing that Babylonian marriages were all arranged at one time—on St. Valentine's Day. The varying dates upon the contract-tablets show that weddings took place all the year round.

So much for bride-price and dowry. The third feature of Babylonian matrimony—viz., the Marriage Settlement—is a much simpler and more intelligible affair. It was a voluntary gift made to the wife by the husband, § 171*b*, the object being to provide for her future, because, if she had already received it, the widow did not share in her husband's estate after his death. If she had not had a settlement, she took the same proportion as one of the sons. If she married again, the settlement reverted to her first husband's family, § 172*b*.

We thus translate *nudunnu* by "marriage settlement," but that term does not fully express the matter :

it is so difficult to render the technical terms of one language adequately into those of another. In some cases the settlement might be a preliminary to marriage. We have seen by the marriage contract between Warad-Sin and Ishtar-ummi (p. 80) that, in consideration of the bride-price, the lady's father renounces all further claim in her. If, therefore, she lost her husband, the father had no longer the right to receive a price for her; the widow sold herself to a second husband. The following marriage contract covers such a transaction. Here the *ci-devant* widow acknowledges the receipt of a settlement, and declares herself satisfied with it. Unfortunately, by the irony of fate, the amount has been broken off, so that we do not know how much satisfied her :—

Bashtu (priestess of Shamash and daughter of Belizanu) has received . . . shekels of silver as her marriage settlement. Her heart is satisfied. Rimum (the son of Shamhatum) has taken her to wife. If Bashtu says to Rimum, her husband, "Thou art not my husband," she will be bound and thrown into the river. And if Rimum says to Bashtu "Thou art not my wife," he will weigh out to her ten shekels of silver as divorce money. In the names of Shamash, Marduk, Samsi-iluna, and the City of Sippara, they have sworn. (Seven witnesses.)

According to Herodotus, it was incumbent on every Babylonian woman to perform a religious rite once in her lifetime. She took her seat in the temple of Venus and stayed there until some man came along and threw a piece of silver into her lap. "Those that are endowed with beauty and symmetry of shape are

soon set free, but the deformed are detained a long time from inability to satisfy the law, for some wait for a space of three or four years." "When she has absolved herself from her obligation to the goddess, she returns home; and after that time, however great a sum you may give her, you will not gain possession of her." Assyriology has not, so far, been able to trace any evidence for such a custom, or anything analogous which may have misled the Greek writer. It will be observed that, apart from this alleged religious rite, he testifies to the virtue of the Babylonian woman.

Our chief source of information is the numerous marriage contracts. In these the respectability of the bride is often certified. The following tablet is dated a hundred years before Hammurabi:—

Ana-Aa-uzni is daughter of Salimatum. Salimatum has endowered her and given her in marriage to Belshunu, son of Nemelum. Ana-Aa-uzni is a virgin. No one has anything against Ana-Aa-uzni. They have invoked the names of Shamash, Marduk, and Sumu-la-ilu (the king). Whoever changes the words of this tablet (shall pay the penalty). (Names of sixteen witnesses.) <sup>1</sup>

The same care was taken nearer the time of Herodotus, as we may see from the following, in the reign of the last native Babylonian monarch:—

Nabu-nadin-ahi spake to Shumukin, saying: "Give thy virgin daughter, Ina-Esagil-banat, to my son Uballitsu-Gula, to take in marriage." Shumukin heard him, and gave his virgin daughter

<sup>1</sup> Theo. G. Pinches, *Old Testament in Light of Historical Records* (London; 1902), p. 173.

to Uballitsu-Gula. As her dowry Shumukin will give one mina of silver, three slaves, and household goods. As regards the silver, Shumukin has handed over the slave-girl Nana-kishirat instead of two-thirds of a mina of silver. When, therefore, Shumukin pays one-third of a mina of silver the full dowry of one mina of silver will be completed. All have subscribed to this tablet. Sixth year of king Nabonidus.

Once the girl was betrothed she was considered the wife of the suitor, though still remaining a virgin in her father's house. § 130 describes such a girl by the words "has not known the male"—*zikaram la iduma*. Her virtue was protected even from her father-in-law, §§ 155, 156. The Code insists on the fidelity of the married woman. Adultery was punished by drowning, §§ 129, 133. Only in the event of desertion by a husband who had left her destitute was bigamy countenanced, §§ 134-6. Furthermore, a Babylonian wife was expected to be above suspicion. Village gossip was a reflection on her husband; and she went through the ordeal of water to preserve his good name, § 132. If her husband were jealous, she was allowed to clear herself by oath, § 131, and the man who slandered her was reduced to slavery.

In the main, Babylonian marriage was monogamous. A man could take a second wife only under certain specified circumstances, such as when the first wife became a permanent invalid, § 148; or otherwise undesirable, § 141; or was sterile, § 145 (unless this clause is limited to priestesses; see "Women in Religion," p. 104). § 167 expressly deals with the case of a man who marries again after the death of his

first wife. According to §§ 144, 146, the wife controls the husband's relations with the female slaves in the household.

On the other hand, the husband had unlimited power of divorce, §§ 137-41, the only stipulation being that he should give the divorced wife a certain sum of money, which sounds small to our standards, but was really a respectable amount in ancient Mesopotamia. The formulæ in the marriage contract tablets state that if the husband disown the wife he shall pay her a stated sum of money; but it is nearly always a capital crime for the wife to disown the husband. In the modern law of Islam, the husband has equally unlimited power of divorce; but the resulting expense and the fear of resentment from the wife's family are usually deterrents.

Notwithstanding the threatening character of some of these provisions of the marriage contracts, Babylonian weddings were celebrated with much feasting and rejoicing, and the relatives of the young people frequently got heavily into debt in their efforts to make a good show. The bride was richly dressed, wearing a veil, and was led in procession from her father's to the house of the young bridegroom, the wedding gifts and the dowry being displayed on trays to the envy of the neighbours, and the slaves walking in style to their new dwelling. The young pair knelt down together in the sight of the assembled guests, took one another's hands, and the bridegroom declared: "I am the son of a great one. With silver and gold will I fill thy lap. Thou shalt be my wife, and I thy husband. I will make this woman fruitful like the palm-tree." Perfumes were burned, and



the young couple led with music and rejoicing to the bridal chamber, where they remained five or six days secluded from the world. At the end of the time the young husband came out to join in games with his companions, while the young spouse showed herself in complete regalia, with tiara and girdle and seal-cylinder, in the full dignity of wifehood.<sup>1</sup>

### INHERITANCE.

In ancient Babylonia inheritance was prescribed by custom. It was governed by the family alliances, and that is why marriage and inheritance are treated together in the Code. A man had no power of testation. All the property he possessed at death was divided equally among his legitimate and acknowledged sons, §§ 165, 167, 170. The daughters do not appear to have had any title to anything, § 183, as their interest was considered to have been anticipated by their dowry. Certain matters had to be provided for previous to this division. If there were an unmarried son, a suitable amount was reserved for a bride-price, § 166. If there were an unmarried daughter (or one whose marriage had not been completed), an appropriate sum was reserved for her dowry, § 184, even if she were only the offspring of a concubine. The widow, unless previously provided for, received a share equal to that of a son, § 172a, but she was only entitled to the usufruct of it. She lost it if she left her husband's house or married again. On her death her share fell into the hotch-pot. If there were a daughter devoted to religion, she took a share

<sup>1</sup> Bruno Meissner, *Babylonien und Assyrien* (Heidelberg; 1920), p. 402.

regulated by her religious rank, which also decided whether she were entitled to it absolutely or not, §§ 180-2.

After the division of the inheritance each heir executed a certificate to the effect that no further claims would arise :—

Nur-Shamash, Ili-ma-aha, Palatu, and Humuru have divided all the possessions of their father from straw to gold. Brother will not have any claim against brother. In the names of Shamash Aia, Marduk, and Hammurabi they have sworn. (Four witnesses and date corresponding to the ninth year of the king.)

The only method by which a man could disinherit a son was by disowning him, and he could only be disowned by order of the magistrate after proof of aggravated misconduct, §§ 168, 169.

On the other hand, a man could dispose of his property in his own lifetime by deed of gift, §§ 150, 165, 171*b*, 179; and as such gift was not in his possession at the time of death it was naturally independent of any division among the heirs.

A woman's testamentary powers were still more restricted. The broad principle was that her property passed to her children. Failing them, to her father, §§ 163, 164; or brothers, §§ 178, 180, 181. Her husband did not succeed to her property. If at the time of her husband's death the children were under age, then she and her second husband (if she had one) were appointed trustees until the children were of age, § 177.

A distinction is made in §§ 171*b*, 172*a*, *b*, between

the *nudunnu* "marriage settlement" and any ordinary deed of gift executed by the husband in favour of the wife, § 150. In § 150 the word *nudunnu* is carefully avoided, and the wife can leave the gift to any of her children she chooses. The only restriction is that it cannot pass to her brothers, the property in question adhering to the husband's family and passing to his issue. It could not be alienated by passing to the family of the wife.

### WOMEN IN RELIGION.

The Code legislates for five classes of women who were evidently following a religious life, but we have not sufficient information to describe their exact functions. The whole subject has been discussed by Professor David G. Lyon, of Harvard University, in his monograph, *The Consecrated Women of the Hammurabi Code* (New York; 1912). In our translation of the text we have rendered the names of these five classes as follows :—

<i>Nin-an</i>	=	<i>entu</i>	=	"Holy Sister"
<i>Ishippatu</i>	=			"Priestess"
<i>Zikru</i>	=			"Hierodule"
<i>Qadishtu</i>	=			"Consecrated Woman"
<i>Zermashetu</i>	=			"Temple Maiden"

The two last figure only in § 181, which may be translated "If a father a priestess (who is) a consecrated woman, or a temple maiden, to God has vowed," meaning that the consecrated woman or the temple maiden belonged to a special order or class of the priestesses. The word *Qadishtu* means, literally, "a

holy one." By its etymology *Zermashetu* would appear to denote "one who cannot have children," and it is often translated "temple virgin." The other three terms are of frequent occurrence.

There is a wide difference of opinion among Assyriologists in regard to the character of these priestesses, more especially the *zikru* "hierodule." The Germans all describe these women as courtesans. The English and American writers, on the other hand, take the opposite view. Professor D. G. Lyon dwells on the fact that they are mentioned in the Code with respect, though that would naturally follow from their religious profession. Mr. S. A. Cook says :—

The statements of Herodotus (i, 199) that a great system of prostitution prevailed in Babylonia has, as yet, failed to find support in the tablets, and the presence of certain clauses in the marriage contracts, to which reference has already been made, is decisive for earlier times at least. No doubt to the foreigner there was much that was unintelligible, and the historian has probably exaggerated what at all events was sufficiently common.<sup>1</sup>

Dr. C. H. W. Johns is more emphatic :—

Nowhere in the Code or elsewhere is there any trace of the evil reputation which Greek writers assign to these ladies, and the translations which make them prostitutes or unchaste are not to be accepted.<sup>2</sup>

The "Holy Sister," at any rate, was careful of her reputation, and in § 127, if a man slanders her, or

<sup>1</sup> *The Laws of Moses and the Code of Hammurabi* (London; 1903), p. 149.    <sup>2</sup> *Hastings's Dictionary of the Bible*, v, 591.

slanders a respectable married woman, he is severely punished and reduced to slavery.

The Holy Sister and the Priestess were also under certain disabilities, as in § 110, which enacts that if one of them leaves the convent and opens a drinking saloon, or even enters a saloon, she is to undergo the terrible penalty of being burned alive! One's curiosity is naturally aroused to account for this drastic punishment of what, at first sight, seems a trivial offence. It is true that the Code speaks only of drink; but we know that wine-shops were likewise houses of ill-fame, and it may have been the same in Babylonia. When Josephus is paraphrasing *Lev. xxi*, 1-9, he states that the Jewish priests were forbidden to marry harlots, or "such as get their living by cheating trades and by keeping inns" (*Antiq.* III, xii, 2), although there is nothing of the kind in *Leviticus*. He represents Rahab (*V*, i, 2) as keeping an inn, whereas *Josh. ii*, 1, confines itself to her other profession. The fate of the Babylonian priestess who entered a wine-shop was exactly parallel to that prescribed in *Lev. xxi*, 9: "The daughter of any priest, if she profane herself by playing the harlot, she profaneth her father; she shall be burnt with fire." Evidently the woman's sacerdotal relationship was held to aggravate the offence so much as to demand this increased penalty, for, as Josephus remarks (*IV*, viii, 23), a lay sinner was stoned, whereas a priest's daughter was burned alive. The treatment she received puzzled the Talmudic commentators, for they pertinently ask: "Shall not a priestess or a priest's daughter be treated better than a tavern-keeper?"

Some of the Babylonian priestesses, at any rate, lived in marriage, for four sections of the Code are devoted to their rights as wives (§§ 144-7 do not refer to any ordinary wife) and § 137 contemplates their divorce. In regard to children, it is to be noted that a different phrase is used for the priestess, as distinguished from an ordinary woman. The ordinary woman "bears" children; the priestess "presents children to her husband" (although in § 163 the same verb is used for the lay wife). This may be mere politeness, or it may indicate, as Professor Lyon surmises, that there was some obstacle to a priestess bearing children, hence the provisions of §§ 144-7, though he knows of one tablet in which a priestess who already has children by a former husband enters into a second marriage. On the other hand, "it may be that the office was not life-long, although the title may have been," and the priestess was not released until after the child-bearing age. The following tablet, from the temple of Nippur, may indicate that only young women could exercise the priestly offices, and will explain the frequent occurrence of contract-tablets recording the adoption of girls by priestesses. In this case it is evident that the old priestess wishes to enjoy the endowment, but employs a female curate to take her place in the temple:—

Shalurtu (wife of Inim-Nannar) has adopted Awirtu, to whose father Hapatu she has paid one and two-thirds shekels as the price for her adoption. Awirtu shall be made a votary, and then she shall let Shalurtu eat her prebend. When Awirtu says to Shalurtu "Thou art not my mother," she shall be sold for money. When

Shalurtu says to Awirtu "Thou art not my daughter," she shall pay ten shekels of silver. Sworn by the name of the king.<sup>1</sup>

Another group of laws, §§ 178-82, deals with questions of inheritance. All these paragraphs refer to a "dowry," the same word being used as with an ordinary marriage, though it is to be noticed that in no case is it contemplated that the priestess should have any children—only her brothers are specified. When a woman entered religion it seems to have been usual to regard her as being married to the deity, and accordingly she took a dowry with her, just as with a mortal husband. A very similar idea appears in the account given by Herodotus (i, 181-2):—

In this temple is placed, handsomely furnished, a large couch, and by its side a table of gold. No statue has been erected within it, nor does any mortal pass the night there, except only a native woman, chosen by the God out of the whole nation as the Chaldeans, who are priests of this deity, say. These same priests assured me, though I cannot credit what they say, that the God himself comes to the temple, and reclines on the bed; in the same manner as the Egyptians say happens at Thebes in Egypt, for there also a woman lies in the temple of Theban Jupiter, and both are said to have no intercourse with men.

In this connection Dr. Delitzsch remarks that the enigmatical word *Zikru* of the Code may have some association with *Zikreti*, one of the words meaning a concubine.

<sup>1</sup> Arno Poebel, *Babylonian Legal and Business Documents* (Philadelphia; 1909), p. 32.

§§ 187, 192, and 193 deal with adoption, and give certain privileges to a Zikru. Her adopted son may not be reclaimed. Mutilation awaits the adopted son of a Zikru who repudiates his foster-mother or leaves her. § 193 is especially noteworthy, for it contemplates the case of a son who "despises his foster-mother . . . and goes to the house of his (real) father." The curious thing is that the Zikru is coupled with a "servitor" in all three of these sections. In the original the "servitor" is a *manzaz panim*; literally, "one who enters before the face," a term which might be applied to a body-servant. In § 187 we also have a *muzaz ekallim* = "an official of the great house." In other cases we meet with *muzaz babim* = "keeper of the door," and *muzaz ebullim* = "keeper of the city gate."<sup>1</sup> This suggests that we may render "The son of a servitor (who is) an official of the great house, and the son of a Zikru." This would reconcile § 187 with §§ 192-3, leaving us with only two individuals in each case; and we might even go further, and suggest that the servitor and the hierodule were married together, and were, in fact, man and wife.

In *Miscellaneous Inscriptions of the Yale Collection* (London; 1915) Dr. Albert T. Clay publishes (p. 66) a lengthy inscription of Nabonidus, the last native Babylonian king, concerning the dedication of his daughter, Bel-shalti-Nannar, as an *entu*, or "Holy Sister." The text is too long to quote; but Dr. Clay says:—

The *entu* were devoted to the practice of magic.

<sup>1</sup> A. Ungnad, *Hammurabis Gesetze*, Bd. ii (Leipzig; 1909), *Glossar*, p. 109.



In dedicating his daughter as an *entu*, Nabonidus says "for the service of divination I established her office of divination." This leaves no doubt that the unchaste reputation given the women devotees of Babylonian temples by Greek writers is not to be applied, at least to their order, and especially when we know the part played by royal princesses.

Nabonidus concludes his inscription with the words :—

May Bel-shalti-Nannar, the beloved daughter of my heart, be strong before them, and may her commands prevail. May her deeds be good, a faithful votary; may she not commit sin.

Therefore it is quite evident that the Babylonian monarch expected his daughter would live a reputable life in her new vocation of priestess.

As far as one can judge by the cuneiform records, the Babylonian priestesses were numerous, and some of them were wealthy. Numbers of the contract-tablets exhibit their activity in business transactions, lending money, speculating in land, and buying up corn and other commodities. They were thus an important and influential class.

#### ADOPTION.

Adoption was an important feature in ancient Babylonian life and a frequent subject in the contract-tablets. At first sight it seems strange that adoption should be so prominent in Semitic society, where ancestor-worship was of little importance. In India and China the institution is more intelligible, for there it is essential to have a son to continue the family cult. In ancient Rome it had the same justification.

The Babylonians, however, had more practical aims—the son or daughter was adopted as a help or comfort. A priestess would adopt a younger woman in order to maintain some temple preferment, the old priestess enjoying the revenue while the younger performed the duties. A childless man sought for some one to manage his property and support him in his old age. Or it might happen that a man's children were grown up and had their own family cares, so that they could not look after their parent properly, and were content to see him under the charge of an adopted kinsman. Or a craftsman might want an assistant, in which case he would adopt a boy to help him in his trade and so gradually learn it. The effect of the adoption was to make the foster-child the heir, just as in the case of the acknowledgment of a slave-girl's child, § 170. The adopted person was usually a relative, but strangers might be taken, or even slaves. The following tablet will illustrate two things: first, the manumission of a slave; and, second, his adoption as a son. The owner removes the slave-mark, breaks the tablet of servitude, and acknowledges the slave as his adopted son; while the children of the owner renounce all right to him as a slave and recognize him as a brother:—

Sin-abushu has cleansed the forehead of Zugagu, and takes him as a son. His tablet of servitude is destroyed. As long as Sin-abushu lives Zugagu will support him. Nutabtu, the priestess of Shamash, and her brother Nabi-Sin (the children of Sin-abushu) have no longer any claim upon Zugagu, their brother. If Zugagu say to his father Sin-abushu "Thou art not my

father," he shall receive punishment according to the laws of the king. Sworn in the names of Shamash, Marduk, and king Sumu-la-ilu.

#### NURSING.

The Babylonian infant was suckled from two to three years, as the ordinary food was not suitable for a young child. The cows and goats gave little milk, and what there was could not be readily preserved in that climate. Consequently, if the mother was not able or willing to suckle the child a wet-nurse was employed. In the following tablet the wet-nurse has not received her maintenance during the nursing period, and, in consideration of that debt and of the payment of three shekels, the mother hands over the young child to the nurse to be adopted (cf. § 185). It is not clear whether Iltani, the Qadishtu, is herself the wet-nurse or whether she has merely made herself responsible for the nursing :—

Zuhuntu (wife of Ilu-kinu) has given her child to Iltani, the Consecrated Woman, to be nursed. She has not paid to Iltani her corn, oil, and wool for the three years of nursing. Therefore Zuhuntu has said to Iltani: "Take the little one; let it be thy child." Iltani has given Zuhuntu three shekels of silver. For all time neither party shall have any claim against the other. In the names of Ninib and Hammurabi they have sworn. (Date corresponding to the 27th year of the king.)

Corn, oil, and wool were the three essentials for food and clothing (cf. § 178), and they are frequently mentioned in this connection. Corn was the staple

food. Oil was necessary for cooking and anointing. The wool was spun by hand and woven into cloth on a rough loom, these being common household occupations. The wool was not shorn, but was plucked off the sheep. Shearing did not come into operation until nearly a thousand years after Hammurabi. For one reason, they did not have suitable metal for making shears. In Old Testament times sheep were always shorn (*Gen.* xxxi, 19); the Hebrews had got beyond the barbarous method of plucking the wool.<sup>1</sup>

#### HANDICRAFTS.

The Code groups together the doctor, the surgeon, the builder, the field-labourer, the herdsman, and the artizan. From the Babylonian point of view these were all craftsmen following a trade. It was an agricultural country, and therefore we have the apparent anomaly of the field-labourer receiving more than the potter, the weaver, the carpenter, or the cordwainer, §§ 273, 274.

We must remember that in Mesopotamia there were no contractors. If a man wanted anything done, he had to treat directly with the workman, who, in most instances, expected his customer to find the raw materials. As in India at the present day, the itinerant silversmith will come along seeking for custom. The householder counts out to him a certain number of rupees, and the smith squats down under some tree and smelts and works the silver into a bangle or a dish or whatever is required. He then weighs back the silver, receives his pay, and departs in search of

<sup>1</sup> Bruno Meissner, "Schafschur in Babylonien," *Orient. Lit. Z.*, March, 1911, p. 96.

fresh commissions. In addition to finding the raw material, the oriental workman often expects his customer to find him in food, and, if the service is prolonged, in clothing as well. Consequently, it is to his interest to spin out the job. Hence the pay for building a house or a boat is fixed at two shekels, §§ 228, 234, and if the work is not properly done and the article comes apart, the builder must make it good with his own material instead of the customer's, §§ 232, 235.

The idea of the Code is to make the workman responsible for good work. The surgeon suffers if his treatment goes wrong, the builder if his work does not stand up, etc. These provisions must have been extremely onerous to the various craftsmen, who can hardly have been people with resources of their own.

High prices were the accompaniment of dearth, famine, and distress (2 *Kings* vi, 25). Low prices were a sign of plenty and abundance (2 *Kings* vii, 1, 16). Hence every Babylonian monarch sought to keep down prices as a proof of good government and the prosperity of his reign.

#### NAVIGATION.

The Tigris runs with a very swift current, so much so that it is difficult for a boat to work up-stream except by towing. The Euphrates is more sluggish, but full of shallows. Both rivers are tortuous and subject to sudden floods. As a consequence navigation is difficult and dangerous.

The Code describes two kinds of vessel, the *mahirtu* and the *mukkielbitu*. The former seems to mean to go against the stream, the latter to go with the stream;

but, even accepting those explanations, the provisions of the Code are not clear. M. Ed. Cuq suggests "cruising boat" for the *mahirtu*, and "cargo boat" for the *mukkielbitu*; and these suggestions have been adopted in the text.

The Babylonians were quite able to build ships, though we should consider them small craft. Much use was made of coracles and rafts. The coracle is still in use, under the name of the "Guffa," and is the same vessel as described by Herodotus (i, 194). The raft, or "Kelek," is made of bundles of reeds or a number of leathern bottles lashed together, the bottles being merely the skins of animals sewn up and inflated. The raft has to be grounded every three or four days, and the skins re-inflated. The raft is floated down by the current to its destination, where the skin bottles are deflated and sent overland up-river on the backs of donkeys ready for a fresh descent.

#### HOMICIDE.

It is worthy of note that the Code makes no provision for wilful homicide except in §§ 24 and 153. It would therefore appear that this crime was treated as extrajudicial. In § 153 it is enacted that a woman guilty of murdering her husband shall be impaled; but this may merely mean that her body was to be impaled, and gives us no information as to the method or rule of execution. In § 24 the relatives of a man murdered by bandits receive one mina of silver (twice the price of accidental homicide, § 207). This would seem to show that the institution of blood-money was recognized in Babylonia. On the other hand, manslaughter rendered a man subject to the

*lex talionis* (§§ 229, 210, 230), and this certainly indicates that among the Babylonians, as among other ancient peoples, homicide was dealt with by the *vendetta*. In the Old Testament it was one of the duties of the *goel*, the next-of-kin, to avenge murder; and the Pentateuch is quite uncompromising upon the subject. *Exodus* xxi, 12, 14, denies all sanctuary to the murderer. *Deut.* xix, 12, shows that the Hebrew judicial authorities had nothing to do with homicide except to hand over the criminal to the vengeance of the *goel ha-dam*. And *Num.* xxxv, 19, 21, 31, reiterates the command that the "avenger of blood" shall slay the murderer whenever and wherever he may meet him, and that no compensation is to be accepted. In the same way, therefore, it is pretty certain that in Babylonia wilful homicide was a family matter with which the judicature was not allowed to interfere. If it had been customary to compound for the crime, we may be sure that the legislator would have made some attempt to regulate the blood-price, as is done in the other cases. The silence of the Code, therefore, is significant. The El Amarna letters demonstrate the existence of the blood-feud in Babylonia, for Burna-Buriash writes to Amenophis IV that if the blood of his messengers who have been slain in Canaan is not requited, then Egyptian messengers may be slain in retaliation. When Dido ascended the funeral pyre she prayed that an avenger should arise from her bones, for it was an added bitterness to think that she had no kinsman to pursue the false Æneas (*Æneid*, iv, 659-60):—

"And must I die?" she said,  
"And *unrevenged*? 'Tis doubly to be dead!"

## CHAPTER V

### THE LAWS OF MOSES

It is hardly necessary nowadays to insist upon the fact that the well-known narratives of *Genesis*, such as the two accounts of the Creation and the stories of the Flood, are merely excerpts from Babylonian cosmogony and Babylonian mythology. The discovery of the great Code raises the very natural question as to whether the *legislation* of the Pentateuch is not also of Babylonian origin. It is true that the Jews attributed their legislation to Moses; but Moses (if he ever had any real existence) must have lived five centuries later than the Babylonian lawgiver. Even in the life-legend of the Hebrew legislator we are confronted with Babylonian elements, for the story told of the infancy of Moses is also related of the famous Babylonian monarch *Shargani-shar-ali*, or Sargon of Agade, who flourished about 2650 B.C., and who is said to have been exposed in an ark of bulrushes upon the River Euphrates, whence he was rescued, and grew up to be ruler of all Babylonia.

Modern scholarship has dissected the Hebrew Pentateuch into several superposed layers, ranging in date from about the eighth century B.C. to the time of Alexander the Great. The details of this dissection have been stated with great caution and moderation



by Dr. S. R. Driver,<sup>1</sup> and need not be repeated here; but they establish the existence in the so-called Books of Moses of at least four systems of legislation, in the following order :—

*The Book of the Covenant* = *Exod.* xx-xxiii, 33 (to which is related *Exod.* xxxiv 11-26).

*The Book of Deuteronomy.*

*The Law of Holiness* = *Levit.* xvii-xxvi.

*The Priests' Code* = The balance of the "Mosaic" legislation.

The *Priests' Code* is the latest and most important constituent of the Pentateuch. It cannot be earlier than the time of Ezra, while it received additions at even later dates.

The *Law of Holiness* is a distinct Code in itself, resembling the two previous codes by opening with sacrificial instructions, and closing with a parenetic exhortation.<sup>2</sup> The closest affinities of this stratum of the Pentateuch are with the prophet Ezekiel, to whose time it probably belongs.

*Deuteronomy* is evidently the "Book of the Law" which Hilkiah, the High-priest of Jerusalem, professed to have found in the Temple in the eighteenth year of Josiah (*i.e.*, 621 B.C.).

This leaves us with the *Book of the Covenant* as the earliest extant example of Hebrew legislation. Professor W. Robertson Smith<sup>3</sup> styled *Exod.* xx-xxiii "the First Legislation"; later critics have preferred the term "Book of the Covenant." This "book"

<sup>1</sup> *An Introduction to the Literature of the Old Testament*, fifth edition (Edinburgh; 1894).

<sup>2</sup> Driver, p. 44.

<sup>3</sup> *The Old Testament in the Jewish Church* (Edinburgh; 1881), p. 316.

appeared so important to the author of *Exodus* that he represented it as having been dictated to Moses by Yahveh himself from the mount of Sinai, to the accompaniment of smoke, fire, trumpets, thunders and lightnings, and every circumstance that could contribute to the awful and solemn character of the revelation. This reverence for the "book," however, was not shared by other Israelites, for the author of *Deuteronomy* had no scruple whatever in endeavouring to supersede it by a rival code, and Professor W. R. Smith gave a table to show "how completely *Deuteronomy* covers the same ground as the First Legislation."<sup>1</sup> Even in *Exodus* itself we see that the scribes had no hesitation in tampering with the text, for it is obvious that xx, 18, follows immediately after xix, 25, the intermediate "Ten Words" being an interpolation. Furthermore, if the Ten Words had formed part of the original text of *Exodus*, there would have been no necessity for xx, 23, which simply repeats xx, 4. In the same way xxiii, 12, would be redundant in face of xx, 9, 10. There have been interminable discussions upon the date and origin of the Ten Commandments, which are now inserted in the twentieth chapter of *Exodus*. As, however, the phrase "the stranger within thy gates" (xx, 10) is distinctly Deuteronic, we must take it that these commandments are later than *Deuteronomy*. As, furthermore, xx, 11, refers to the *six days of creation*, the passage must be later than the first chapter of *Genesis*,<sup>2</sup> which is part of

<sup>1</sup> *O.T.J.C.*, p. 432. See also Hastings's *Dictionary of the Bible*, article "Deuteronomy."

<sup>2</sup> "The six days of creation" is not a Babylonian idea, nor is it found upon the "Creation Tablets" which describe the

the *Priests' Code*, and therefore comparatively modern. The Ten Commandments must consequently be eliminated, and the speech of Yahveh commences at *Exod.* xx, 22, and extends to xxiii, 33. It consists essentially of a code of laws, mingled with exhortations.

The question now arises as to the *originality* of this Sinaitic legislation. In view of the Hammurabi Code, it was clearly unnecessary for Moses to seek for any supernatural guidance in framing a body of laws, seeing that such an excellent system had been worked out 500 years before, and the Israelites were on the eve of entering a land where the Babylonian legislation was in all probability well known. Assuming, however, that modern criticism is right, and that the laws in *Exodus* are no earlier than the prophets Hosea, Amos, and Micah (*i.e.*, the eighth century B.C.), we are so much the further removed from the time of Hammurabi, and so much the closer to the fresh wave of Babylonian influence which was rapidly spreading westward owing to the Assyrian conquests. It may be remarked that the arrangement of the

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overthrow of Tiamat by Merodach and the subsequent formation of the universe. As Delitzsch and Martineau have pointed out, an attentive perusal of the first chapter of *Genesis* reveals the fact that the days of creation were no part of the original Hebrew narrative. The Elohist account originally made the creation to take place by eight stages—viz., *Gen.* i, 3, 6, 9, 11, 14, 20, 24, 26. Each of these sections originally began with the words "and God said," and ended with "and God saw that it was good"; but the latter phrase has dropped out of the second section, probably by a clerical error, though the Talmud assures us that the words were intentionally omitted because hell was created on that day. Consequently, the division of the creation among the six days of the week must have been the work of some late Sabbatarian, who thought by that means to give a greater authority to the old Babylonian institution of the *Sabbath*, or sabbath.

*Book of the Covenant* bears a superficial resemblance to that of the Code of Hammurabi. The "Book" begins with directions as to how Yahveh is to be worshipped; then follow the laws; and finally there is an exhortation to observe these laws. The Code opens with a declaration of the greatness of Hammurabi; then come the laws; and lastly there is an appeal to posterity to respect his monument and legislation. In any case, however, if there be any relationship between the Hebrew and the Babylonian legislations, there is only one possible conclusion, and that is that the Hebrew was borrowed from the earlier Babylonian.

#### THE THREE ESTATES OF ISRAEL.

We have already seen that the Babylonian Code deals with three classes of persons—the Freeman, the Slave, and the Plebeian. In like manner the Hebrew legislation is concerned with three classes—viz., the free man, the slave, and the *Ger* (translated "stranger" in the English version). The *Ger* (= "client" or "sojourner") was a person intermediate between a slave and a full citizen. The pious Israelite sometimes described himself as a *Ger* of Yahveh (*Ps.* xxxix, 12), and on the Phœnician monuments we have such names as Ger-Melek, Ger-Astarte, Ger-Melqarth, etc. But while the Plebeian has clearly defined rights in Babylonian Law, the Book of the Covenant merely recommends that the *Ger* shall not be wronged or oppressed (*Exod.* xxii, 21; xxiii, 9). There is a vast difference between giving a man a legal standing and simply recommending him to mercy. In *Deuteronomy* the *Ger* is

still the object of a semi-contemptuous pity; and while the *Book of the Covenant* (*Exod.* xxii, 31) directs that flesh torn by wild animals is to be given to dogs to eat, the more frugal Deuteronomist allows unclean food to be given to the *Ger*. The *Priests' Code*, however, shows the *Ger* on the high road to amalgamation or emancipation, for it directs that there shall be one law for the *Ger* and for the freeborn Israelite (*Lev.* xxiv, 22; *Num.* xv, 15).

### THE JEWISH TRIBUNAL.

The Code of Hammurabi may be considered to have definitely settled the true meaning of *Exod.* xxi, 6; xxii, 8, 9. The Code regularly directs that a case shall be taken *mahar ili*—i.e., “before God” (or “before a god,” for the Babylonians were not so poverty-stricken that they had only one God). The *Book of the Covenant* in one place directs that a slave shall be brought “unto God,” and in the other passages that litigants shall come near unto “God.” Commentators and translators with a dread of anthropomorphism have been puzzled over these passages, and have suggested that the word *Elohim* here means “judges,” as we may see by the margin of the Revised Version. But, in view of the Babylonian Code, there can be no doubt whatever that what is meant is the local altar of the deity; and in 1 *Sam.* ii, 25, we read of *Elohim* judging between man and man, so that the author of this part of *Samuel* at any rate was familiar with the idea of bringing cases “before God.”

The best way to determine the relationship of the *Book of the Covenant* is to compare it verse by verse

with the Code of Hammurabi; and as *Exod.* xx, 22-6, is merely of a ritual character, we must commence our comparison with the twenty-first chapter.

*Exod.*        § 117. The principle of the Babylonian and  
xxi, 2-11 Hebrew enactments is the same. In both cases the free native cannot be held in perpetual slavery. But while the Babylonian law limited the period of bondage to three years, the Hebrew extended it to six,<sup>1</sup> and even this was eventually found to be too short a time to enable the average debtor to repay his debt. Therefore, in the Priests' Code (*Lev.* xxv, 39-41) the period of servitude is extended to forty-nine years, or the year of Jubilee. The lengthened period of servitude sanctioned by Hebrew law gave rise to complications not met with in the Code of Hammurabi. The latter does not anticipate that the bond-master will find a wife for a bondsman, or that the bondmaster will seek to marry the debtor's daughter to himself or his relations. The Hebrew slave could not be sold into a foreign land, and § 280 emancipates slaves that have been conveyed into another country. The Babylonian Code is, however, more completely on the side of freedom than the Hebrew. By § 175 children of a free mother are free; by § 171 children of a free father are free; it was only

<sup>1</sup> Dr. C. H. W. Johns suggests that *Deut.* xv, 18, betrays a knowledge of the three-year term of the Hammurabi Code (*Relations between the Laws*, p. 43).

when *both* parents were slaves that the children remained in the same status.

v. 12 The Babylonian Code made no provision for wilful homicide.

v. 13 The Code § 207 inflicts a fine of thirty shekels for accidental homicide.

v. 14 See v. 12.

v. 15 § 195 prescribes that a son who strikes his father loses his hand. The Hebrew law is more severe.

v. 16 § 14. Hebrew and Babylonian are in agreement.

v. 17 § 192. The foster-child who denied his foster-parents lost his tongue.

v. 18, 19 § 206. Both codes are identical.

v. 20, 21 The Babylonian Code only contemplates injuries to slaves by third parties. In § 217, however, the owner is liable for fees for medical attendance on a slave.

v. 22-5 §§ 209-14 are more detailed than the Hebrew, and, as the Code only recognizes the *lex talionis* in the case of equals (§ 200), the law of retaliation comes into force solely in case of the death of a free woman.

v. 26, 27 The Hebrew assesses eye or tooth of slave at full value; the Babylonian at only half (§ 199).

v. 28 § 250. Both legislations acquit the owner of a goring ox; but the Hebrew has superposed the Bedaween idea that the animal is accursed. The ox is to be stoned to death, and its flesh may not be eaten.

v. 29-32 § 251. The Hebrew law lays the owner of

a vicious ox open to the vengeance of the relatives of the deceased, though they are allowed to accept a ransom if they so choose. The Babylonian fixes a penalty of thirty shekels in case of a free man, twenty shekels for a slave. The Hebrew assesses the slave at thirty shekels, and in all cases directs the ox to be stoned.

v. 33-6

Although the Babylonian Code does not provide for these specific instances, §§ 53-6 make a man responsible for injuries done to the property of others.

xxii, 1

§ 262 would probably deal with this if it were entire. § 8 inflicts a thirty-fold penalty in the case of a free man, ten-fold in the case of a plebeian, for animals stolen from mansion or temple.

v. 2-4

§ 21. Both direct a thief caught in the act to be slain; but the Hebrew (like the *XII Tabb.*) limits this to robbery by night.

v. 5

§ 57. In both Codes trespass is to be paid for in kind.

v. 6

See note to xxi, 33-6.

v. 7

§ 125. Both laws agree, and both leave to the depositor the duty of recovering the loss from the thief.

v. 8

§ 120. In both laws the suspected depositor has to clear himself by oath "before God."

v. 9

§§ 9-13. The Babylonian is the more detailed in directing inquiry into claims for lost property. But while the Code is concerned in tracing out and identifying the



original thief, the Hebrew legislator merely orders the receiver or holder of the stolen goods to refund double.

v. 10, 11

§ 266. Both laws are identical, and in both the shepherd clears himself by oath.

v. 12

§ 263. The laws again agree.

v. 13

§ 244. The laws again agree.

v. 14

§§ 245-8. The laws agree, but the Babylonian is more detailed.

v. 15

The Babylonian law makes no mention of such a case as injury to an animal in charge of its owner. But it would probably take the same view. The Hebrew gloss is not very enlightening (glosses seldom are); but it probably means that, the owner having voluntarily put the animal to the work, he had no grievance if any ill result followed.

v. 16, 17

§ 130. The Code agrees more fully with *Deut.* xxii, 25, 26. The regulation in *Exodus* implies that the Hebrew father exacted a higher bride-price for a virgin daughter. Seduction rendered her less saleable, and therefore he was given the right to compel the seducer to marry the girl at the full price, or pay the difference in her value.

v. 18

The *Book of the Covenant* inhibits only a *female* sorcerer. From *Jer.* xxvii, 9, it appears that male sorcerers were recognized in Israel even after the publication of *Deut.* xviii, 10, which forbade them. In *Isaiah* iii, 3, which is probably pre-Deuteronomic, the cunning charmer and the skilful enchanter are reckoned among the notables, and the deprivation of

the services of these sorcerers is held up as a terrible punishment.

v. 19 Not in Babylonian Code.

v. 20 The Babylonian Code nowhere inculcates religious persecution.

v. 21 The Hebrew merely recommends the *Ger* to the mercy of the Israelite, while the Babylonian Code contains a series of regulations in regard to the rights of the plebeian.

v. 22-4 Widows and orphans are left in the Hebrew to the mercy of relations, and it appears from the complaints of the prophets, *Isaiah* i, 23, *Ezek.* xxii, 7, *Mal.* iii, 5, etc., that these unfortunates received scant justice in Israel.

v. 25-7 § 241. The Hebrew forbids distraint upon necessary clothing, but inflicts no penalty in case of infraction. *Deut.* xxiv, 6, forbids distraint upon a quern or quern-stone, but likewise inflicts no penalty. The Babylonian extends the provision to plough oxen, and enforces the regulation by fine.

v. 28 31 There are no religious ordinances in the Babylonian Code.

xxiii, 1-2, §§ 3, 4, and 5. While the Hebrew is merely  
6-8 rhetorical, the Babylonian makes practical provisions.

The rest of *Exod.* xxiii is either religious or aphoristic, and therefore presents no analogy with an established code of legislation.

There is no need to suppose that the promulgation of the Book of the Covenant put a stop to the influence of external codes upon Hebrew law, and we

actually find precepts in the later legislation of the Pentateuch which recall ordinances of the Hammurabi Code that are neglected in *Exodus*. Thus:—

§ 3 is in greater agreement with *Deut.* xix, 15–21, than *Exod.* xxiii, 1–8, to which we have compared it.

§ 59 may have inspired *Deut.* xx, 19.

§ 60 prescribes that when an arboriculturist undertakes to plant an orchard he is to enjoy the fruit for four years, and in the *fifth* year the owner comes in and takes his share. *Lev.* xix, 23–5, reads very much like a blundering reminiscence of this ordinance. For three years the yield of the orchard is *tabu*, the fourth year's crop is sacred, and not until the *fifth* year (as in the Babylonian) does the owner appropriate the fruit.

§ 129 agrees with *Deut.* xxii, 22.

§ 132. *Num.* v, 11–31, is essentially the same, and in both cases the woman is directed to undergo an ordeal by water. The Babylonian Holy River, however, was out of the question, for rivers are rare in Palestine. It is therefore replaced by the “water of jealousy.”

§§ 154–8. The Hebrew laws of incest, omitted in the Book of the Covenant, are to be found in *Deut.* xxvii, 20, 22, 23, and *Lev.* xviii, 6–18.

Several of the usages referred to in the legends of the Hebrew patriarchs are now seen to be in accordance with the Hammurabi Code. Thus in *Gen.* xvi, 3, the barren Sarai gives her maid Hagar to Abram for the purpose of raising children. In *Gen.* xxx, 3, Jacob's wife Rachel acts in the same manner; while xxx, 9, relates the same thing of Leah. All this is in strict conformity with §§ 144–6 of the Code. In *Gen.* xvi, 4–16, Hagar plumed herself upon her

superiority to her mistress, as in § 146, and Sarai "dealt hardly with her," as she was entitled to do by the Code. Hagar ran away, and was sent back home by the "angel of the Lord," who directed her to submit herself to her mistress. If the angel had been a police officer of Hammurabi, he could hardly have acted otherwise.

When Jacob kept the flocks of Laban (*Gen.* xxxi, 38-40) he prided himself upon having observed the Babylonian laws laid down in §§ 262-7, and upon the fact that he had not availed himself of § 266 for the purpose of clearing himself by oath in the case of damage by wild animals. Laban, however, did not regulate his wages by § 261.

The marriage customs of the Hebrews, though not expressly regulated by law, are in general agreement with Babylonian ideas. *Exod.* xxii, 15, speaks of the bride-price, or *Mohar* (mistranslated "dowry" in the English version). The enamoured Shechem understood perfectly well that a bride-price would be expected for Dinah (*Gen.* xxxiv, 12), and offered any desired amount. And in 1 *Sam.* xviii, 25-7, Saul having desired a peculiar bride-price for his daughter Michal, David duly procured it and wedded the lady.

In *Jud.* i, 15, and the parallel narrative in *Josh.* xv, 19, we have the only mention in the Old Testament of a dowry given with a daughter, it being called a *berakah* or "blessing," and not being very clearly distinguished from a mere gift from a father to his daughter.

Lastly, in *Gen.* xxxiv, 12, Shechem promises a *matthan*, or "gift," corresponding with the Babylonian *nudunnu*—i.e., a marriage settlement. It seems, therefore, that all the ordinances of Baby-

lonian marriage were recognized in Israel, although the bride-price was the only one that received any great amount of attention.

These resemblances should be decisive. In the comparison of the Hebrew Book of the Covenant with the Babylonian Code the resemblances are simply overwhelming. Out of thirty-two ordinances twenty-one are in accord with the Babylonian, most being practically identical, and the others being quite in the Babylonian spirit. The inference is, therefore, that *the Hammurabi Code must have been the immediate or remote progenitor of the Hebrew legal system.*

For the sake of simplicity we have so far regarded the *Book of the Covenant* as though it were a homogeneous composition; but it must be evident to every attentive student that it is nothing of the kind. The differences of style observable in it have been investigated by several eminent critics, whose conclusions have been summarized by Professor G. F. Moore.<sup>1</sup> For our purpose, however, it will be sufficient to indicate merely a few of the peculiarities of the "Book." The way in which chapter xxi commences would lead one to expect a carefully-digested corpus of law. First we have stated the hypothetical case of the purchase of a Hebrew slave, and then comes an orderly consideration of the various contingencies arising therefrom. But this complete and methodical treatment is not maintained. The laws are mixed confusedly together, so that xxi, 22-5,

<sup>1</sup> See his article "EXODUS (BOOK)" in the *Encyclopædia Biblica*, edited by the Rev. T. K. Cheyne, vol. ii (London; 1901).

has become inserted in the middle of a section dealing with an entirely different subject (verses 20, 21, and 26, 27), and after xxii, 17, the ordinances become a mere jumble. In fact, these three chapters of *Exodus* look more like the wreck of a code than an orderly statement of one.

There is also some difference in the way in which the several laws are stated. The greater part are put hypothetically, as in the Code of Hammurabi (for the Babylonian *shumma amelu*, "if a man," answers pretty closely to the Hebrew "and if a man"), but in other instances they are categorical. Thus xxii, 18, commences "thou shalt not," and xxii, 19, "whosoever lieth," in an entirely different style to the hypothetically stated enactments. Even these latter are stated variably, some being addressed to the pronoun of the second person, and others (in the style of the Babylonian Code) being referred to the third person. Thus xxii, 25, "If thou lend money," should be contrasted with xxii, 1, "If a man shall steal an ox." A further peculiarity in these two hypothetics is that in the one God is represented as speaking directly, while in the other he is referred to as a third party. Thus xx, 25, "If thou make *me* an altar of stone"; but in xxi, 6, "his master shall bring him unto *God*." If, now, we separate the sections which speak of the third person, in the Babylonian style, we shall find they consist of the following: xxi, 1-11, 14, 18-36; xxii, 1-17; and these are the passages that agree best with the Code of Hammurabi! It is evident, therefore, that the verses in question are fragments of an early Hebrew book of laws which was derived from the Babylonian

Code. The fragments are preceded and introduced by the words, "And these the *mishpatim* which thou shalt set before them." The word *mishpatim*, "judgments," answers to the Babylonian *dinani*. Hammurabi calls his Code *Dinani mesharim*, "judgments of justice"; the Hebrew legislator calls the old Hebrew Code *mishpatim*, "judgments"; and the Psalmist speaks of the "judgments of justice," just like the Babylonian (Ps. cxix, 7, 62, 164); so that the technical phrases are practically identical.

The discovery of the Code of Hammurabi, therefore, enables us to place the criticism of the Book of the Covenant upon a fresh and sound basis. It is now perfectly clear that the compiler of the "book" adopted such of the older laws as suited his purpose, and added to them sundry regulations of a ritual character, together with precepts of the kind that have been popular with moralists of all ages, from the counsels of Ptah-hotep<sup>1</sup> (3500 B.C.) to the copy-books of the twentieth century. The science of jurisprudence must have been at a very low ebb in Palestine when such a compilation as the *Book of the Covenant* was possible. The laws themselves are treated as quite subordinate, and the interest of the compiler centres in theological matters, such as the proper methods of sacrifice and the regulation of the periodic festivals. In the later systems of Pentateuchal legislation this tendency is progressively increased. The Book of *Deuteronomy* cannot conceal its entire dependence upon the *Book of the Covenant* for its legal

<sup>1</sup> M. Philippe Virey, "The Precepts of Ptah-hotep: the Oldest Book in the World"; *Records of the Past*, new series, vol. iii, p. 16.

matter; and the additions made are merely religious and sermonistic. Even Canon Driver sums up the characteristics of the later codes as follows <sup>1</sup>:—

“From a literary point of view, *Deuteronomy* (disregarding the few short passages belonging to P, and the two poems in chs. 32, 33) consists of a code of laws accompanied by hortatory introductions and comments.”

“We come next to the *Law of Holiness* (H) (*Lv.* 17-26). This consists substantially of an older body of laws, which have been arranged by a later editor in a parenetic setting, the whole thus formed being afterwards incorporated in P, with additions and modifications, designed for the purpose of harmonizing it more completely with the system and spirit of P. . . . The original nucleus of H, when compared with the *Book of the Covenant*, will be seen to deal very much less fully with civil and criminal law. The only regulations relating to criminal law are those in 24<sup>17-21</sup>. Those in ch. 25 might be classed as belonging formally to civil law, but they are regarded more properly as expressions of religious or humanitarian principle.”

“The legislation of the *Priests' Code* properly so called (P) is confined almost entirely to ceremonial observances, especially those relating to sacrifice and purification.”

In other words, the successive codes of the Pentateuch display greater and greater sacerdotalism as time goes on. It was entirely owing to the influence of the Babylonian Code of Hammurabi that the religious system of the Old Testament was cast into a legal form at all. The Hebrew language itself bears witness

<sup>1</sup> Article “LAW” in the *Dictionary of the Bible*, edited by James Hastings, vol. iii (Edinburgh; 1900).



to the knowledge of codes of law engraved upon stone, like the pillar found by M. de Morgan at Susa.<sup>1</sup>

The Israelites did not preserve *all* the Babylonian laws; some were inapplicable, others implied a more advanced state of civilization and morality than was to be found in the kingdoms of Israel and Judah.

The military regulations (§§ 26-41) did not obtain in Israel, because, as far as we know, the kings had no bodies of feudal vassals settled upon crown lands, although they did have bands of foreign mercenaries in their pay (2 *Sam.* xx, 7). Every able-bodied Israelite was expected to serve as a soldier, and to appear fully armed whenever called out by general levy (1 *Sam.* xi, 7).

The land regulations (§§ 42-56) are not represented in the Pentateuchal legislation, although there were large landholders (*Is.* v, 8) who must have farmed out their estates; and there was some amount of irrigation, though, of course, not on the scale practised in the valley of the Euphrates. §§ 60-6 have also disappeared from Hebrew jurisprudence, with the exception of the apparent reminiscence in *Lev.* xix, 23-5, of which we have already spoken.

The Jews of the Old Testament were not a mercantile race, hence §§ 100-7 were unnecessary. Agriculture was the staple industry, and all commerce was in the hands of the Phoenicians; *Isaiah* xxiii, 8, even using the word "Canaanite" as a synonym for merchant.

The most noteworthy omission, perhaps, is in regard to the laws of inheritance. The provisions of the Hammurabi Code seem very complete and very equitable; but the Hebrew laws are just the reverse.

<sup>1</sup> Article "Law" in the *Dictionary of the Bible*.

We merely learn that Israelitish sons divided the paternal possessions equally among themselves, except that the eldest-born took a double share (*Deut.* xxi, 15-7). Daughters inherited only upon failure of sons; and if there were neither sons nor daughters, then the brother of the deceased succeeded (*Num.* xxvii, 4-11). In any case, the widow had no claim on the estate. In early times, at any rate, she was herself considered part of the property of the deceased, and dealt with accordingly; as was the custom among the heathen Arabs down to the advent of Muhammad (2 *Sam.* xvi, 21; iii, 7), and the tenth commandment enumerates the wife together with the house, the ox, the ass, and the other property of one's neighbour. Even the *Book of the Covenant* has no provision for the widow and the orphan—they are merely recommended to mercy (*Exod.* xxii, 22), like the *Ger* or stranger; and we may see by the frequent prophetic denunciations that the condition of the widow and the fatherless was a standing grievance in Israel. A comparison of Babylonian law with Hebrew custom will show how far the Jews had fallen below the moral standard of the subjects of Hammurabi.

Adoption, which occupies such a large place in the Code (§§ 185-93), is not referred to in the Jewish law, but is replaced by the curious provision of the Levirate, which treats the wife as a mere child-bearing machine (*Deut.* xxv, 5-10).

The Navigation Laws (§§ 234-40) were, of course, useless to the Israelites, who were not a maritime people. And the scales of fees and wages would be unenforceable out of Babylonia itself.

As already indicated, the *additions* of the Hebrew

legislators were almost entirely of a theological character. The basic ideas of the Hammurabi Code are civil right and solid justice; and, considering the times and the circumstances, these are very well realized by the Code. The king makes much of his devotion to the gods and the blessings they have bestowed upon him; but theology is rigidly excluded from the Code itself. The deities are only called in to decide by the Ordeal in cases where human insight fails (§§ 2 and 132), or to guarantee an oath where human evidence is wanting. In the Pentateuch, on the other hand, the theological interest is paramount. The principle of religious persecution is introduced from the very first, being inculcated even in the *Book of the Covenant*; whereas religious persecution was entirely unknown in Babylonia, not only in the Code of Hammurabi, but throughout the whole range of cuneiform literature, as far as we are acquainted with it at present. *Num.* xxxi, 17-24, is a typical instance of the ideal Pentateuchal combination of bloodthirstiness and ceremonial zeal; and one of the objects of the completed Torah is the establishment of a theological reign of terror. The same penalty is prescribed for petty infractions of ritual as for the gravest crimes; and the *Priests' Code* is a wearisome litany of "that soul shall be cut off from his people." Unauthorized compounding of oil or incense is punishable with death (*Exod.* xxx, 33, 38), so is neglect of the Passover (*Num.* ix, 13), Sabbath-breaking (*Exod.* xxxv, 2), or even doing "aught with an high hand" (*Num.* xv, 30). The fierce and senseless intolerance of the Laws of Moses forms a significant contrast to the judicial dignity of the Laws of Hammurabi.

## APPENDIX A

### BABYLONIAN WEIGHTS, MEASURES, AND VALUES

ALTHOUGH Babylonian metrology is still a difficult subject, its elements have been worked out by Fr. Thureau-Dangin, in his "L 'U, Le Qa, et La Mine, leur mesure, et leur rapport," in the *Journal Asiatique*, tome xiii (Paris; 1909), p. 79; and the following tables are now generally accepted, although it will be understood that the English equivalents are merely approximate, and are not intended to be exact :—

	1 Cubit	= 18 inches
12 cubits	= 1 Gan	= 18 feet
	1 She	= $2\frac{1}{2}$ square feet
3 she	= 1 Gin	= 8 "
60 gin	= 1 Sar	= 36 square yards
1800 sar	= 1 Gan	= 16 acres
	1 Qa	= $\frac{3}{4}$ pint
300 qa	= 1 Gur	= $3\frac{1}{2}$ bushels
	1 grain	= 1 Troy grain
180 grains	= 1 Shekel	= 180 "
60 shekels	= 1 Mina	= $22\frac{1}{2}$ oz. Troy
60 mina	= 1 Talent	= $92\frac{1}{2}$ lb. Avoirdupoise

Taking pure silver at 5s. 5d. per oz., the values would work out as follows :—

1 Grain	= Half a farthing
1 Shekel	= 2s. 3d.
1 Mina	= £6 15s.
1 Talent	= £405

The value of money was very great, and prices were correspondingly low in Babylonia. There is an in-

scription of Sin-gashid, king of Erech, lauding the years of abundance which attended his prosperous reign, when a man could go into the public markets and for one shekel of silver (2s. 3d.) he could purchase  $9\frac{1}{2}$  bushels of wheat or barley, or 13 lbs. of wool, or 11 lbs. of copper, or 10 quarts of vegetable oil (oil of sesame). Those prices, however, were quite exceptional; and the days of Hammurabi were neither so cheap nor so prosperous. Monsieur Ed. Cuq, in his *Prêt à intérêt* (Paris; 1918), and Dr. B. Meissner, in his *Babylonien und Assyrien* (Heidelberg; 1920), have collected together the current prices shown in the contract tablets of the period of Hammurabi; and we are thus able to set out the following table of average values, which will give a better idea of the economic position of Babylonia at the time when the Code was first promulgated:—

Corn (wheat or barley) ... ..	7d. a bushel
Oil (oil of sesame) ... ..	4d. a pint
Toddy (fermented juice of dates) ... ..	$\frac{1}{4}$ d. a quart
Sheep's wool ... ..	4d. a lb.
Goat's hair ... ..	Slightly cheaper
Copper ... ..	9d. a lb.
Iron ... ..	12s. a lb.
Draught ox, for ploughing ... ..	18s. 6d.
A cow ... ..	18s.
A ram ... ..	3s. 4d.
A sheep ... ..	2s. 3d.
A lamb ... ..	5d.
Male or female slave ... ..	£1
Mantle (the ordinary garment) ... ..	1s. 3d. to 1s. 9d.
House (covering 36 sq. yds.) ... ..	£1
House, with land it stands on ... ..	£1 10s.
Agricultural land ... ..	8s. 6d. to 17s. per acre

The principal metal in Babylonia was copper. Iron was scarce and expensive, having to be brought all the way from Asia Minor, and being valued at one-eighth of the price of silver.

The average male or female slave could be bought for the equivalent of 20s. in our money. Those with special qualifications were, of course, much more valuable, as much as £6 being recorded in special cases.

The principal garment was a woollen mantle, drawn round the waist and thrown over the shoulder.

The houses were of crude brick, and were seldom larger than 1 *sar* in area (*i.e.*, 36 sq. yds., or 18 ft. each way). They had no upper story, and no windows beyond a few small openings like port-holes. Such a house would be let for a yearly rental of 2s. to 4s., the tenant being expected to keep the clay walls and the thatched roof in repair. The houses and land were, of course, freehold.

## APPENDIX B

### ABRAHAM AND AMRAPHEL

FOUR chapters of the Book of *Genesis* are devoted to the unedifying story of Abraham's nephew. Not a single creditable action is related of him, and it would have been more decent to have omitted the whole narrative. The fourteenth chapter tells how he was carried off by four foreign monarchs. Abraham then went in pursuit as far as "the left hand of Damascus," and the battle resulted in "the slaughter of Chedor-

laomer and of the kings that were with him" (*Gen.* xiv, 17). The scapegrace nephew was thus brought back, to indulge in further pranks of an unmentionable character.

It is quite conceivable that the Hebrew writers may have introduced the names of historical personages into this story, although that, of course, would be no evidence for its accuracy; and many attempts have been made to identify the names in *Genesis* with those of history.

In 1873 the continental Professor, François Lenormant, announced that he had discovered the identity of Arioch, king of Ellasar, with "Eri-Aku," king of Larsa. That was in the infancy of Assyriology. Probably, if the science had been further advanced, the suggestion would not have been made. It need only be remarked that the name in question is now usually transcribed as Warad-Sin. Warad-Sin reigned twelve years over Larsa (now represented by the ruins of Senkereh), and was succeeded by his brother, Rim-Sin, who was at one time confused with him, and who has also been claimed to be the Arioch of *Genesis*. The identification is, obviously, of the most precarious nature, and really reduces itself to the fact that the consonant R is common to both names. In fact, it is completely parallel to the famous comparison between Henry V and Alexander the Great, because there is an M in Macedon and an M in Monmouth. As Dr. C. H. W. Johns puts it:—

Rim-Sin and Arioch have only one letter in common, though Larsa and Ellasar have three. It is a triumph of ingenuity to identify Rim-Sin

and Arioch, and it has been done on various suppositions. But it is also clear that on no supposition was a Hebrew right in reading Rim-Sin as Arioch, nor has the former name been yet found written in the form which he [the Hebrew scribe] has been supposed to have so misread (*Laws of Babylonia* [London; 1917], p. 19).

The hypothesis of Lenormant was surpassed in the Jubilee year, 1887, by still another, which would equate Amraphel, king of Shinar, with the historical Hammurabi, king of Babylon! This brilliant identification was "Made in Germany" by Dr. Eberhard Schrader in a work which professed to trace the relationship between the cuneiform inscriptions and the Old Testament. We may ask, with Dr. C. H. W. Johns:—

How comes Hammurabi's name to be rendered by Amraphel? We know that his name was variously rendered in cuneiform, being a foreign name to the Babylonian scribes. But they never spell his name as ending in *l*. . . . Assuming a cuneiform record to be translated by a Hebrew writer (? Moses) who knew some cuneiform Babylonian, that writer blundered into misreading the name of one of the most celebrated kings of Babylon, with whose history he must have been little acquainted, and whose name he found written in a way to which there is no known parallel. Further, he called him king of Shinar. No tenable suggestion has yet been made as to what cuneiform signs he rendered by Shinar. There also he must have found something to which there is no parallel in the native titles of Hammurabi. There is not a single reason in anything said of Amraphel to suggest



anything properly said of Hammurabi, except that the names have two out of four letters in common (*ibid.*, p. 18).

The well-known Assyriologist, Dr. Theo. G. Pinches, has paid great attention to the subject; nevertheless, he says (*Proc. Soc. Biblical Archæology*, vol. xxxix [1917], p. 4) :—

When the chronology of Hammurabi's reign was but imperfectly known, there was always room for the events recorded in *Gen.* xiv; but now that new date-lists have filled up all the blanks, and the colophon-dates of the contract-tablets of the period have supplemented them, the question arises: What room have we for the episode of the four kings against five, and the destruction of Sodom and Gomorrah? And here, before I go any farther, I should like to say that, though I am not a Higher Critic, it has never entered my head to attack the higher critical school. I was not present when *Genesis* was written, and I do not know whether the date of this composition was early or late.

Dr. Pinches may be ignorant of the date of *Genesis*, but no one doubts his knowledge of Babylonia, and we may rest content with his assurance that there is no room in the known career of Hammurabi to allow of that monarch running after Abraham and Lot, and no evidence that Hammurabi met his death through being slaughtered by Abraham on the left hand of Damascus.

## APPENDIX C

## DYNASTIC LISTS

EARLY Babylonian chronology has now been placed on an established basis by the efforts of Dr. Fr. X. Kugler, the Dutch astronomer, who in 1912 worked out from a couple of cuneiform tablets observations of the heliacal rising and setting of the planet Venus during the twenty-one years of the reign of Ammizaduga, the tenth king of Babylon, whose accession was thus established as being in the year 1977 B.C. (See *The History of Babylon*, by Dr. Leonard W. King [London; 1915], pp. 106-10.) This enables us to attach definite dates to the dynasties of Nisin, Larsa, and Babylon, and settle the synchronism of the various monarchs.

In the middle of the third millennium B.C. the sovereigns of the City of Ur held the suzerainty of Mesopotamia. Their kingdom was overthrown by Elamite invasions, and the leadership passed to Ishbi-Ura, who proclaimed himself king of Nisin, and reigned thirty-two years. The series of his dynasty is known to us from a tablet brought from the great temple library of Nippur. (See *Babylonian Expedition of the University of Pennsylvania*, Series A, edited by H. V. Hilprecht, vol. xx, part 1 [Philadelphia; 1906], p. 46) :—

## THE DYNASTY OF NISIN.

B.C. 2348	Ishbi-Ura	reigned 32 years
2316	Gimil-ilishu	„ 10 „
2306	Idin-Dagan, his son	„ 21

B.C. 2285	Ishme-Dagan, his son	20	years
2265	Libit-Ishtar, his son	11	"
2254	Ur-Ninip	28	"
2226	Bur-Sin, his son	21	"
2205	Iter-pisha, his son	5	"
2200	Ura-imitti	7	"
2194	.....	$\frac{1}{2}$	"
2193	Enlil-bani	24	"
2169	Zambia	3	"
2166	.....	5	"
2161	.....	4	"
2157	Sin-magir	11	"
2146	Damiq-ilishu, his son	23	"
2123	(Nisin conquered by Rim-Sin, of Larsa)		

The succession of the kings of Larsa has been established from a cuneiform tablet, acquired some years ago by the University of Yale, New Haven, U.S.A. (See *Miscellaneous Inscriptions of the Yale Babylonian Collection*, by Albert T. Clay [Oxford University Press, London; 1915], p. 30.) This tablet was found at Senkereh, the site of the ancient Babylonian city of Larsa, and appears to have been written in the twelfth year of Samsu-iluna, king of Babylon :—

## THE DYNASTY OF LARSA.

B.C. 2367	Naplanum	reigned 21	years
2346	Emisu	28	"
2318	Samum	35	"
2283	Zabaya	9	"
2274	Gungunum	27	"
2247	Abi-sare	11	"
2236	Sumu-ilu	29	"
2207	Nur-Immer	16	"
2191	Sin-idinnam I	7	"
2184	Sin-iribam	2	"
2182	Sin-iqisham	6	"

B.C. 2177	Sili-Immer	reigned 1 year
2165	Warad-Sin	„ 12 years
2153	Rim-Sin	„ 61 „
2092	(Larsa conquered by Hammurabi, of Babylon)	

For the list of the kings of Babylon, see Dr. L. W. King, *History of Babylon* (London; 1915).

#### THE FIRST DYNASTY OF BABYLON.

B.C. 2225	Sumu-abum	reigned 14 years
2211	Sumu-la-ilum	„ 36 „
2175	Zabium, his son	„ 14 „
2161	Apil-Sin, his son	„ 18 „
2143	Sin-muballit, his son	„ 20 „
2123	Hammurabi, his son	„ 43 „
2080	Samsu-iluna, his son	„ 38 „
2042	Abi-eshuh, his son	„ 28 „
2014	Ammi-ditana, his son	„ 37 „
1977	Ammi-zaduga, his son	„ 21 „
1956	Samsu-ditana, his son	„ 31 „
1925	(Samsu-ditana defeated and slain by the Hittites)	

#### APPENDIX D

#### EARLIER SUMERIAN LAW CODES

WHEN the great Code of Hammurabi was discovered, it was recognized at once that the king had founded his legislation upon the customary law of the period, and there was little doubt that this law had been derived from the Sumerians. The earliest known contract-tablets are in the Sumerian language, and there are many records which are evidently judg-

ments, or written decisions, given by judges. Thus a considerable body of case-law must have grown up, and the next step would be to codify it. In 1915 Dr. Albert T. Clay and Dr. Henry F. Lutz were fortunate enough to discover two important fragments of an ancient Sumerian Code of Laws among the tablets in the Yale Collection and the Museum at Philadelphia. The date of these copies is somewhat uncertain, but they are ascribed with much probability to the Dynasty of Ur (2465-2347 B.C.). By their language and their character they must be considerably earlier than Hammurabi, and we may be confident that they were part of the material he employed for drawing up his own Code. These discoveries have been discussed by Professor Stephen Langdon in the *Journal of the Royal Asiatic Society* (1920), p. 489, under the title "The Sumerian Law Code compared with the Code of Hammurabi." Professor Langdon arranges the sections as follows:—

1. If a man to a man for planting a garden with trees gave vacant land (and) this vacant land in planting with trees he finished not, to the gardener who did the planting, in his share of it, the (part of the) vacant land which was neglected shall be assigned. Cf. Hammurabi Code, § 61.

2. If (a man) the garden of a man takes over and pollinates it not, but neglects it, he shall pay ten shekels of silver. Cf. H. C., § 65.

3. If a man in the garden of a man has cut wood, half a mina of silver he shall pay. Cf. H. C., § 59.

4. If a man's house is beside vacant land of a man which is neglected and the owner of the house to the owner of the vacant land "Thy vacant is neglected;

in order to seclude my house strengthen thou thy house" said, and the words concerning the agreement be established, the owner of the vacant land to the owner of the house for whatsoever he lost shall indemnify. *Cf. H. C., § 71.*

5. If a female slave or a male slave from a freeman in a city escape, and in the house of a freeman for one month take up abode and he (or she) be confirmed (as the owner's), slave for slave he shall give. If he have no slave, twenty-five shekels of silver he shall pay. *Cf. H. C., §§ 15, 16, 19.*

6. If the slave of a freeman against his master concerning his servitude has brought complaint, and to his owner his servitude twice be confirmed upon his forehead shall one incise a mark. *Cf. H. C., § 282.*

7. If there be a malady, there shall be a gift of the king. Not shall he be left destitute.

8. If there be a malady, and of his own free will he come to a freeman, that freeman shall not reject him, but to the place of his desire he shall cause him to go.

9. If a man against a man for a deed which was not done, for a matter which he knew not, has brought accusation, and that man has failed to prove it, as to the matter which he accused him of, let him bear the penalty. *Cf. H. C., §§ 3, 4, 11, 126.*

10. If the owner of a house or the mistress of a house the burden of taxation on a house has abandoned and has taken himself off, and another man has borne it and for three years he has not ejected him, the man who has borne the burden of taxation of the house shall take that house. The owner of the house shall not protest. *Cf. H. C., § 30.*

11. If the owner of a house . . . (remainder missing).

12. If a second wife he has married, and she has borne him a son, the dowry which from her father's house she brought shall be her son's. The son of the wife who was first chosen and the son of the second wife, the property of their father equally shall divide. *Cf. H. C., § 167.*

13. If to a man the wife whom he married bore him a son and that son lived, and a handmaid to her master also bore a son, and the father to the handmaid and her sons gave them their freedom, the son of the handmaid with the son of her master shall not divide the house. *Cf. H. C., §§ 170, 171.*

14. If his wife, the one first chosen, has died, and after the death of his wife his handmaid he took. A son to her master she bore, son like son his house shall enjoy. *Cf. H. C., §§ 170, 171.*

15. If to a freeman his wife bore a son not, and a hierodule in the highway bore him a son, to that hierodule sustenance in grain, oil, and wool he shall give. To the son of the hierodule whom she bore to him "He is his son" (he shall say). As long as his wife live, the hierodule with the wife who was first chosen in the house shall not take up her abode. *Cf. H. C., §§ 144-7.*

16. If a man the wife who was first chosen of a man turned his eye upon, and he was taken in her bosom, not shall she be sent forth from the house. His wife, the wife of his . . . whom he has married (that is) the second wife, the wife who was first chosen shall support. *Cf. H. C., §§ 156, 148.*

17. If a son-in-law to the house of his father-in-law brought (a tribute) and the marriage gift

gave, and then . . . (remainder missing). Cf. H. C., §§ 159-61.

18. If a man jostled the daughter of a freeman and that which was in her interior he caused to fall, he shall pay ten shekels of silver. Cf. H. C., §§ 209-13.

19. If a man smote the daughter of a freeman and that which was in her interior he caused to fall, one-third of a mina of silver he shall pay. Cf. H. C., §§ 209-13.

20. If a man who was sent upon a commission *in crossing a river* allowed a ship to be lost, until he has raised the ship her rent and the decrease in value to its owner he shall pay. Cf. H. C., §§ 236-8, 240.

21. If an adopted child to his father and his mother "Not my father, not my mother" has said, of house, field, garden, slaves, and property shall be he disinherited, and that adopted child for his full price shall he sell. And if his father and his mother "Not our son" said to him, they shall be deprived of utensils and house. Cf. H. C., §§ 185-93.

22. If to an adopted son his father and his mother "Not our son" (said), from house and city shall they be compelled to go.

23. If (a man) the daughter of a freeman in the street took for a bride, and her father and her mother knew it not, "I . . . her" to her father and mother he shall say. Her father and her mother unto wifehood shall give her to him.

24. If (a man) the daughter of a freeman from the street took for a bride, and her father and her mother knew of it, he who took her for a bride shall be seized and judged. In the house of god he shall . . .

25. If an ox-herd allows a lion to devour (an ox),



a substitute of equal value to the owner shall he present. Cf. H. C., §§ 244, 266, 267.

26. If an ox-herd allow an ox to be lost, ox for ox (to its owner shall he restore). Cf. H. C., §§ 245, 267.

Some half-dozen precepts have long been known as "The Sumerian Family Laws." They were recovered from an exercise-tablet, which appears to have been employed in teaching the Sumerian language; but most probably they were taken from some ancient Code :—

1. If a son says to his father, "Thou art not my father," they shall brand him, and fetter him, and sell him as a slave for silver. Cf. H. C., §§ 192, 226.

2. If a son says to his mother "Thou art not my mother," his face they shall brand, from the city they shall banish him, from the house they shall drive him.

3. If a father says to his son "Thou art not my son," he shall leave house and goods.

4. If a mother says to her son "Thou art not my son," house and goods shall she forfeit.

5. If a wife hate her husband, and says "Thou art not my husband," into the river they shall throw her. Cf. H. C., §§ 142, 143.

6. If a husband says to his wife "Thou art not my wife," half a mina of silver shall he weigh out to her. Cf. H. C., §§ 137-40.

7. If a man hire a slave, and he dies, or is rendered useless, or is caused to run away, or is caused to rebel, or is made ill, then for every day his hand shall measure out half a *qa* of corn. Cf. H. C., §§ 245-8, 199, 252.

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